

Eye Magazine

The Magazine of The International Academic Forum | Issue 6 | Winter/Spring 2015

Seeking Justice & Freedoms

Plus

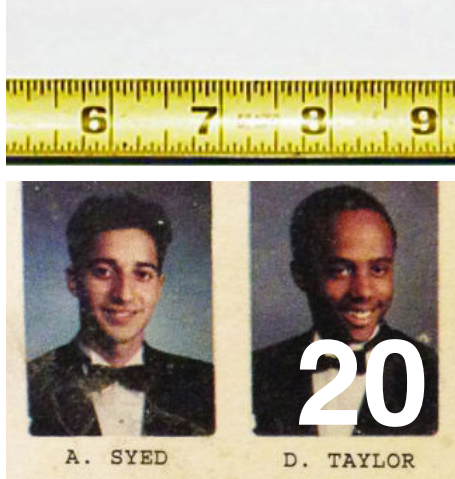
Hollywood legend Olivia de Havilland as the bad girl

Emma:

Did she wrongfully spend years on death row?

Rape Culture in Music:
Lyrics that Provide a Step-by-Step Guide to Sexual Assault

The popularity of the
Serial podcast



CONTENTS

- 4.**
From the Editor
An introduction to the latest edition of Eye Magazine
- 6.**
Being Charlie
Power, Text & Context
by Joseph Haldane
- 12.**
Emma
Did a woman spend years on death row for a murder she did not commit?
by Ruth Johnson Carter
- 20.**
Serial
How did a story about a possible wrongful conviction make for the most popular podcast of all time?
by Lindsay Lafreniere
- 23.**
In the Pursuit of Justice
Alec Klein and the Medill Justice Project
by Richard Roth and Lindsay Lafreniere
- 24.**
“What a cool liar you are, Melly”
Hollywood legend Olivia de Havilland as the bad girl
by Victoria Amador
- 32.**
Victory at Sea
A Paradox of Objectivity Immersed in Hard-Hitting Action
by Wajiha Raza Rizvi



35.
**Japan's Ill-Fated Decision
for War**

by David McCormack

40.
Flying a bigger kite

The C-2 Boonoggie
by Michael Liam Kedzlie

44.
Rape Culture in Music

Lyrics that Provide a Step-
by-Step Guide to Sexual
Assault

by Antonella Regueiro
Fernandez

52.
The Portrait of Dr. Gachet

A Study in Sorrows
by Jared Baxter

56.
**Where did you get them
Rights?**

The legislative and public
policy journey of the New
Zealand Bill of Rights Act
1990

by Michael Liam Kedzlie

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A word from the editor

Welcome to the Winter/Spring 2015 edition of IAFOR's Eye Magazine, the International Academic Forum's own in-house e-magazine publication. In this month's Eye we once again have a great line-up of articles and opinion pieces.

In this edition I have handed over the writing of the feature editorial to Dr. Joe Haldane, the IAFOR President, who came to me with an article Being Charlie: Power, Text and Context he wrote in the days following the tragic events in Paris. It is an article from both the heart and intellect, which is something that comes shining through in all of the articles in this, the first edition of 2015.

Human rights and freedoms are essentially important in the heavily contested times in which we live. It is those who have lost their rights and freedom and fought and won them back are the people whose voices resonate more forcefully. Emma Cunningham is one such person and is the subject of the first article in this edition. Emma was sentenced to death 35 years ago for a murder she did not commit. Emma's story and her long struggle for justice and indeed, for her life, is brilliantly told by Ruth Johnson Carter from Georgia College, USA. Ruth originally told Emma's story as part of her spotlight presentation at our European Conference Series. I am thrilled to be publishing in this edition Victoria Amador, from the American University of Sharjah, who has written a marvelous article on the Hollywood acting legend Olivia de Havilland. Victoria had the opportunity to interview Olivia numerous times and her article offers a fantastic insight into the roles, career, motivations, and artistry of a living legend in the wider global film and media consciousness. I am grateful to all these above women for allowing their works and stories to be told. To Ruth, Emma, Victoria and Olivia I thank you.

The story of getting justice for the innocent is also the background in our profile of Dr. Alec Klein, from the Medill School of Journalism at North-Western University (US), as he leads the ground-breaking Medill Justice Project that uses investigative journalism skills taught to undergraduate students to assist them to seek the truth that lies behind contentious criminal justice cases. Frequently their work has seen incarcerated people innocent of the crimes for which

they were charged achieve freedom. Also, Assistant Editor of Eye Magazine Lindsay Lafreniere provides an excellent article on the popularity of the Serial podcast, which tells the story of a possible wrongful conviction.

The objectification, sexualization, and violence against women in modern rap music is an important topic that translates across all cultures and is the concern raised in Antonella Regueiro Fernandez's article on rape culture. It reveals how frequently the lyrics provide a step-by-step guide to sexual assault on woman.

In this edition we have another great article follow up from the Jared Baxter series titled The Portrait of Dr. Gachet: A Study in Sorrows that further explores the symbolism found in the works of painter Vincent Van Gogh. Jared Baxter will be a featured speaker at this year's Asian Conference on Arts and Humanities to be held in Osaka this April. British historian David McCormack contributes a fascinating article revealing the political maneuvering and rationale behind Japan's ill-fated decision for war against the United States in 1941. Through Wajih Raza Rizvi we also learn how the breakthrough 1950's US television documentary series Victory at Sea shaped the genre and became influential in how filmic narrative both influences and distorts historical events. Finally, in this edition I take a historical look at the public policy evolution of the New Zealand Bill of Rights Act 1990, which is celebrating its 25th year since its enactment, as well as the troubled JASDF Air Transport replacement.

As Editor, I must give special thanks to my assistant editor Lindsay Lafreniere for her hard work and advice in getting this magazine together and looking so good. Lastly, I must again thank the voluntary contributions of our featured contributors. They are the people who really make Eye the insightful, intelligent and interdisciplinary magazine that it is. Though this edition is at times challenging, it is nevertheless informative and thought provoking -- attributes that inspire our role as academics in this complex and at times unbalanced world. We hope you enjoy reading it and feel inspired to contribute yourself.

Michael Liam Kedzlie
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Being

EDITORIAL



Charlie

Power, Text & Context

by Joseph Haldane





For students of politics, it doesn't come much better than France. French politics are boisterous and argumentative, pluralistic, hypocritical and contradictory. It boasts very active parties on all sides of the political spectrum in a constant state of disarray and a wonderful, or woeful, depending on one's perspective, cast of characters. There are relatively few dull moments: for example the last presidential election in 2012 was contested between the incumbent, a charismatic but divisive right-winger on his third marriage to a former supermodel (Sarkozy); and the challenger (Hollande), a seemingly dull pair of hands, who was the former partner of Sarkozy's previous presidential contender (Royal), but who left her for a gossip columnist (Trierweiler), before leaving

her for an actress once in power. As an aside, Hollande was not meant to have been Sarkozy's challenger, that was to have been Strauss-Kahn, the head of the IMF who was alleged to have raped a chambermaid in a New York hotel, or to have been the victim of some conspiracy depending on one's political leaning. Incidentally, Sarkozy replaced a president with a predilection for creating imaginary jobs and fiddling expenses (Chirac), and who was found guilty of diversion of funds after leaving office.

The French press, one would think, would be never short of things to write about, but it is in fact surprisingly dull. Serious publications are Serious with a capital S, notably deferential and are often (and often justifiably) accused of being in cahoots with the political

class: there is no way that France's leading intellectual newspaper, *Le Monde*, would prominently feature the Prime Minister as a condom, as does the UK's *Guardian*. This may also account for the national daily newspapers' relatively low circulation in comparison with France's biggest regional newspapers.

(Non)Sense and Satire

Biting satire in the form of prose, and cartoons however, has a long history in the land of Voltaire and it is precisely because the mainstream publications consider this the realm of the vulgar, that the French newsstands have made room for two satirical weekly publications: *Le Canard Enchaîné* and *Charlie Hebdo*. The former was established 100 years ago and has

become known for its investigative journalism, and has a comparatively large circulation in excess of 400,000, and the latter in its current incarnation was the product of left wing cartoonists who took aim at the establishment, organized religion, and pretty much anything else that took their fancy.

The cartoons featured on the covers of Charlie Hebdo were usually unapologetically vulgar, and often trenchantly militant in what they were saying. There was little space for nuance with their drawings. They were not innocent, but barbed and wantonly offensive towards their target, and yet that is what satire is for: to ridicule where conventions of respect in polite company do not allow, so as to expose hypocrisy or shortcomings. Was Charlie Hebdo disrespectful in its treatment of the prophet Mohammed? Without a doubt, but it was an equal opportunities' offender!

I taught at two Journalism schools in Paris, and in weekly press reviews of the French press, Charlie Hebdo would always have cartoons or sketches that drew reactions of disbelief, stifled laughter, gasps of outrage, or rolled eyes of resignation. Satirists are militants at heart, and are looking for reactions to stimulate discussion, and further their political viewpoint, which in the case of Charlie was not party political, but rather a coalition of left-wing, antireligious, and liberal causes. Other targets included the Catholic church: during the last conclave a cover depicted the cardinals of the "gay lobby" in a circle, one behind the other, and linked by something other than their resolute faith. Another recent cover featured the Pope administering the eucharist, with a condom in both hands as he delivers the words, "This is my body". Yet another showed a fundamentalist Jew machine gunning an Arab in the back, while shouting "Take that, Goliath!", and Islam was also held up to ridicule with one controversial cover depicting the crying prophet with his head in his hands as he wails "It's hard being loved by idiots".

The depictions of Muhammad caused widespread offence among many Muslims in France, not least because most schools of Islam consider it blasphemous to depict the prophet in any form, let alone in the irreverent manner of the Charlie Hebdo cartoons. In the context of bitter disagreements within France over multiculturalism in reaction to social unrest, and in light of the continuing global clash of religions and values, the covers were seen as inflammatory, and seen by many on the political far left as tantamount to racism and Islamophobia: of particular concern to many was the continued conceptual amalgamation of Muslims and terrorists, which was seen by many as playing into the hands of the resurgent right wing National Front party.

This disapproval by many, including senior politicians of all colors, claimed that many of the cartoons were inflammatory, and yet these criticisms belie the telos of satire. The deontological arguments for self-censorship are also hypocritical in that these assume both that the cartoonists did not in any way edit their work (or self-censor), which they did, as well in its suggestion that those who might feel offended should not be targeted. They also conveniently forget that satire is only possible because of historical and contemporary context, and reflects rather than creates this context. France is officially secular, but has a Catholic establishment, the highest Muslim population of any Western European country, the third largest Jewish population in the world (after the US and Israel), and enlightenment



Satirists are militants at heart, and are looking for reactions to stimulate discussion, and further their political viewpoint, which in the case of Charlie was not party political, but rather a coalition of left-wing, antireligious, and liberal causes.

traditions of atheism, republicanism, regionalism, socialism, communism, and as many other isms as one can list, all in uncomfortable coexistence.

Killing and Being Charlie

The disapproval of many Muslims became common, but it was the reaction of Islamic fundamentalists that was predictably stronger, and in 2011 their offices were firebombed in the early hours of November 2, following the publication of an issue which was supposedly guest edited by the Prophet, and which was renamed “Charia Hebdo” [Sharia weekly]. In the 2011 attack, there were no casualties, but on January 7, 2015, two gunmen raided the magazine’s offices and executed the editor, and most of the senior staff members.

The reaction was an immediate and spontaneous outpouring of support for the magazine. Even those who had been critical of its content identified with the show of solidarity for free speech around the rallying cry of identification with a small group of cartoonists, “Je suis Charlie”. Of course it did not take long before those on the far left, the fractious multitude of groupings to which the satirists belonged, started debating whether or not they “were Charlie”, or even whether they liked Charlie. The show of national solidarity, as well as the government’s financial backing of the magazine, was not something which they could actively support as they felt a deep discomfort with the idea of identifying with the rainbow coalition. It is worth noting that the cartoonists involved would certainly have appreciated the irony of their weekly rag being the flavor of the month with the President, yet ‘being’ Charlie in this context is not about agreeing or sympathizing,

but rather recognizing their right ‘to be’ Charlie, as at a fundamental and existential level, Charlie Hebdo no longer ‘is’, and France and the French press is poorer because of it.

Stéphane Charbonnier, the editor of the magazine until his assassination, would certainly have been surprised to have seen the reaction, and doubtless uncomfortable at being used as a poster boy for the various causes from the National Front which he deplored, to President Hollande, for whom he had little time, to Benjamin Netanyahu, whom he detested: Palestinian statehood being one of the issues the magazine regularly featured: one cover depicted a shackled Palestinian with a national flag embedded in his posterior being asked by an Israeli soldier wielding a machinegun “how is statehood is going?”

Religion, Rights and Responsibilities

Islamophobia is not a new phenomenon, and has existed since the time of Muhammad, and Charlie Hebdo was indeed anti-Muslim, and anti-religious in general, whether it was taking aim at Muslims or amalgamating Muslims and terrorists, because its position on the God debate was fairly clear. Whether Catholic, Jewish or Muslim, Charlie Hebdo saw organized religion as something the world would be better off without. The magazine did not see Islam as being something which should be off limits because depictions of Mohammad were blasphemous, but rather all the more in necessary of lampooning because their chosen media was the cartoon.

There have been strains of response that assert the cartoonists must bear some responsibility for their acts, but while there can be little doubt

of causation in the face of death threats, any equivocation of cause and responsibility is fundamentally wrong both morally and legally, and is a line of reasoning that comes dangerously close to suggesting just desert.

Charlie Hebdo made and continues to make the cultural left in France uncomfortable, as a tradition formed in protest and emancipation of rights for workers, women and oppressed minority groups has made great political progress in the last century, but a contradiction that lies at the heart of the messages of respect and tolerance is the extent to which this should be extended toward groups which are themselves intolerant, or hold views which are incompatible with the ideals (not necessarily the realities) of the French state, and with which Charlie fervently disagreed. This irresolvable difficulty is something that many students of politics and cultural studies will recognize, and with which modern liberal democracies struggle.

The past century has seen an increase in the struggles within different strains of the main organized religions as to how to reconcile modern life with the diktats of religious works, interpretations and teachings, as well as to confrontations with the secular or multicultural states in which they exist. This has been particularly problematic with regard to Islam which is a religion governed by laws which are often contrary to the laws in non-Islamic states. A notable example of this was the decision by the French state to ban the wearing of all conspicuous religious symbols in public schools in 2004, including the hijab (female headscarf), mandated by Islamic law. This law was hugely controversial in France, and was widely seen as being directed against Islam. The more recent 2010 law

banning the “concealment of the face in public spaces” was aimed squarely at Muslims, as it made the wearing of the niqab and burqa illegal: freedom of religious expression was trumped by a national law in the name of the common good, but not without heated debate as to just what that meant.

Free speech

Throughout human history, people have been persecuted for their beliefs, and their writings, and the very concept of free speech is an ambiguous heuristic to which many subscribe, but which usually comes laden with caveats undermining the very concept. However, that does not mean that it is an empty concept, or that the absence of an absolute makes it any less valuable. It is this contested ideological, deontological, and legal space in which the concept is negotiated that gives freedom of speech its power. While it may be difficult to define, its absence or severe

constriction, as in many countries at present is the surest sign of tyranny.

Exercising free speech is what ended up costing these satirists their lives, and it is for this reason that we are appalled by these assassinations. Fervently disagreeing with a point of view or perspective, or with the manner in which that point of view is expressed is part of human communication and political discussion. There are often blurred lines between what is acceptable socially and legally, and Charlie Hebdo pushed the boundaries, and undoubtedly crossed the line several times, but a fatwa for political sketches, however offensive, is unacceptable.

As an academic, I take freedom of expression as a given, and the key tenet on which the academy and this organization is founded. While we encourage respectful dialogue in our conferences and publications, we must acknowledge our debt to those who

have had to be a little more vulgar, or less nuanced in getting their points across, so that we might now enjoy the freedom to be more respectable. While I may chose prose and Hegelian dialectic, and Stéphane Charbonnier drawings and unsubtle polemic, we are in fact distant cousins, and it is for that reason that I am also Charlie.

Dr Joseph Haldane is the President of the International Academic Forum, and the publisher of the IAFOR Eye Magazine. He studied and worked in Paris between 1997-2000, and 2002-2005. Between 2003 and 2004, Dr Haldane taught courses on the Anglo-American Press at the French Press Institute in the University of Paris (II), before taking a full time faculty position at Sciences Po from 2004-2005, where he devised and taught the British Politics and Media Course in the School of Journalism.

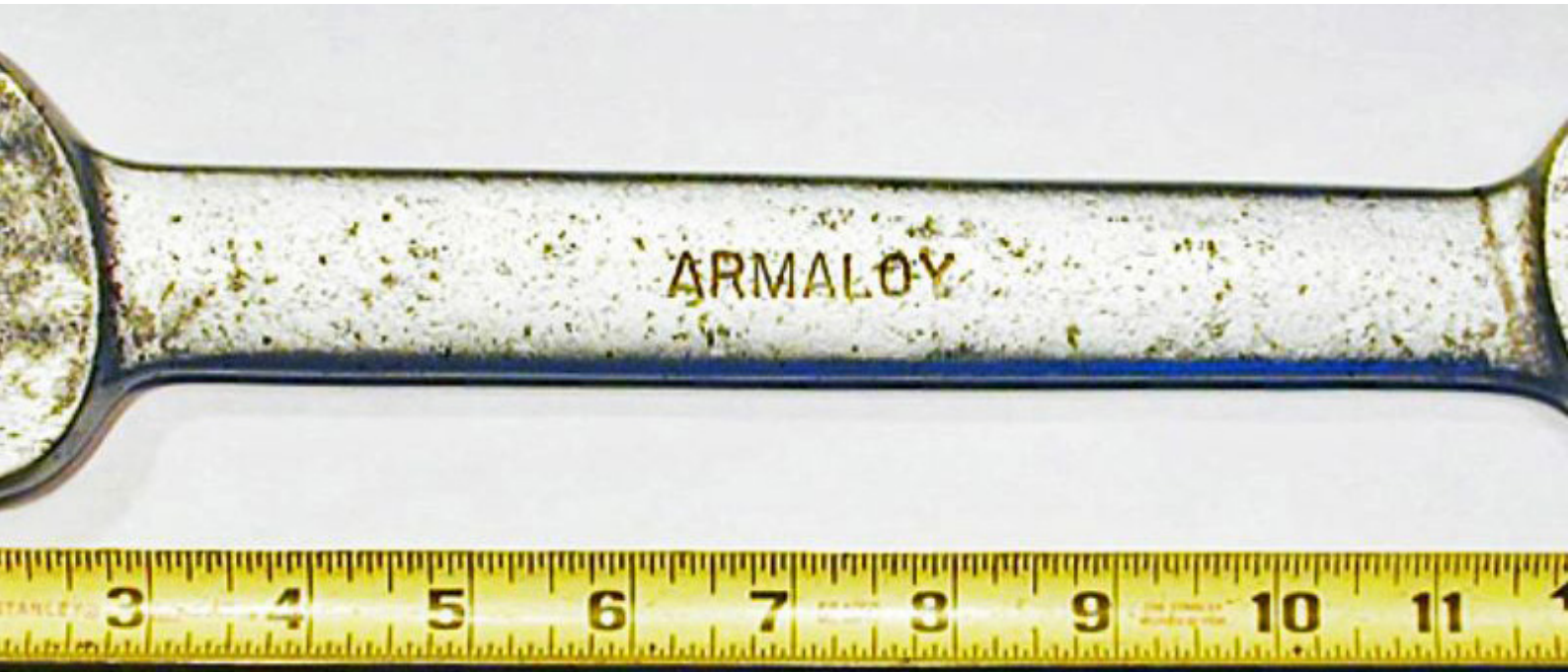


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Emma

Did a woman spend years on death row for a murder she did not commit?

By Ruth Johnson Carter



I have been advised that I am waiving my constitutional right to a jury trial and I do this of my own free will, an under no one's influence, and do so after talking with my parents, Mr. & Mrs. Roy Tennant.

I also direct that a jury trial be waived as to armed robbery and kidnapping charges also pending in Lincoln Superior Court.

This the 24th day of Oct, 1978.
Anna Ruth Cunningham

Annie Ruth Tennant
Rt 3 road
Box 417 km

B. H. C. for
Roy W. Dineen, C.

AT 12:15 PM
filed Oct 25, 1978
T. B. Stead

The Murder of Bill Crawford

On the evening of January 1, 1979, the horribly battered body of William Beal “Bill” Crawford was discovered by his long-time housekeeper, Mary Alice Tutt, who had become concerned when her boss did not answer his phone. Walking from her own house, situated nearby, she let herself in with the key she had been given. She located Mr. Crawford in the storeroom at the back of his house lying dead in drying pools of blood. His head had been beaten almost beyond recognition and his arms were bent at odd angles from his body, each broken in several places. Stifling her screams, Mrs. Tutt ran to the phone and called the Lincoln Police.

Chief Lawrence Peeler arrived within a few minutes with several officers from his headquarters located only a few streets away at 148 Ward Street. Peeler was unaccustomed to dealing with homicides. He immediately called for assistance from the Thomson Seventh District Office of the Georgia Bureau of Investigation. Two GBI officers, Special Agents Mike Siegler and Jim Carver, took control of the crime scene.

The agents reported that Mr. Crawford was known to keep large sums of money in his house. The officials presumed that this cash was the likely “motivation for the murder.” Although an autopsy was immediately scheduled, the preliminary analysis indicated that Mr. Crawford “had put up a terrific struggle,” which led to his being killed by the killer striking him many times with a blunt object all over his head and body.

The front page of the January 2, 1979 Lincoln Journal newspaper described the scene at Mr. Crawford’s house: Blood was reported by lawmen to be “scattered all over the place.” The intruder “tracked blood over portions of the house.” Crawford’s body was

presumably turned over after it fell to the floor since there were two pools of blood on the storeroom floor.

Crawford owned a profitable Frito-Lay snack franchise and lived in the house he inherited from his parents. The house, a one-story Victorian with gingerbread trimming and a wrap-around porch, was located on Humphrey Street, ironically, directly across the street from the Lincoln County Courthouse. In a town with a population of less than 2000 the discovery of the murder of Bill Crawford in his own house was horrifying to the white population, most of whom knew Mr. Crawford at least casually, and many were his life long friends.

Emma Cunningham

For Emma Cunningham, January 1, 1979, was a Monday like any other. Had she known, she would not have cared that this was the day that diplomatic relations were re-established between the United States

and China after 30 years of disruption and the Secretary General of the U.N. announced the International Year of the Child.

Emma had never been as much as 100 miles from where she was born in Hartwell, Georgia. Her concerns were local and specific. She needed to go to the laundromat.

Washing machines and dryers for home use were too expensive for people on a limited income, so most of the African American community had no choice except to use the only facility open to them. She and her husband James “Snowball” Cunningham caught a ride with a friend to what they called the washhouse. Emma

wanted to be sure that her two small children had clean clothes for a trip planned to New Jersey for a family funeral.

Since they had no way to get home after the clothes were washed and folded, Emma relates, “I had to leave my baskets of clothes and walk with James over to my Daddy’s house to get him to give us a ride home.” When asked after her arrest, “Which way did you walk?” Emma responded, “We came right by the Shell station, past the Milky Way Freeze Bar to my daddy’s house, off the 378/McCormick Highway.”

“We don’t go way ‘round by Mr. Crawford’s house,” Emma said. “My daddy live about a mile away from the laundromat off N. Washington Street.” Despite Emma’s statement, it was certainly possible to go to her father’s house by way of Mr. Crawford’s home and then walk the internal streets and pick up the highway from Goshen Street. Either way was about a mile.

The death penalty is like a lottery, in which fairness always loses.

“After Daddy drives us home,” Emma recounts, “James leaves again. Somebody pick him up in a car. I never saw who it was. I stay up watching Wheel of Fortune and other game shows. Then I go to bed.” Emma remembers, “I get waked up around 1:00 a.m. New Years night with James shakin’ me like a dice cup and sayin’, ‘Get up! Get up! We goin’ to leave now.’ I say, ‘You crazy!’ I get up anyhow. That’s always how Snowball was. We always leavin’ anyway, which way and whenever. I say, ‘I thought we was leavin’ tomorrow.’ He say, ‘Wrap up the children real good, it cold out. I got Junior Williams outside. He gonna drive us to Augusta right now’”.

She felt like a drop of water suspended from the rim of a dripping faucet. The fall was inevitable and had no outcome but chaos and destruction.

There is no proof of this scenario except if James had beaten Mr. Crawford to death his clothes would have been covered with blood when he left the scene. It is hard to believe that Emma or any sane person could have helped murder a man she knew and then walk in the rain with her blood soaked husband to her father's house. It is equally unlikely that anyone covered in blood could have walked more than a mile along a highway without being noticed. It is just as unbelievable that after picking up her baskets of clothes, Emma would have returned home, to watch games shows on TV, and peacefully fall asleep without any unusual emotional reaction. Only a psychopathic personality would be able to function that way. Emma has never shown any violent characteristics. Psychological exams before and after Emma's trial indicated no signs of mental illness barring understandable situational depression and anxiety.

Emma has never deviated from her version of her behavior on the day of the murder or that after their return home James almost immediately left again in a car she never saw. It was James who was agitated and frantic when he returned late that night wearing different clothes and it was he, who when arrested, confessed to the murder, without incriminating her until after his return to Georgia.

James' Trial

The lock step movements of the law followed a well-worn path. James' culpability in the assault and death of William Crawford, given the attitude of the white community, seems to have

been virtually decided even before his trial, which began on October 23, 1979.

The remaining issues were the penalty to be handed down for James and the degree of complicity, if any, of his wife, Emma, to be determined during her own trial. District Attorney, Kenneth Goolsby who prosecuted both cases said "I don't think I have ever seen a more senseless killing than this one." In his confession, James Cunningham said, "I did not intend to kill" Mr. Crawford.

Mr. Goolsby maintained, "It is not necessary that murder should be a part of the original design, but it is enough that it be one of the incidental and probable consequences..."

"The law says that you are guilty of murder if this wrench, (indicating the tool admitted into evidence as the murder weapon) caused the death of Bill Crawford."

"Is there any doubt in your mind about the facts in this case? Murder is the killing of a human being, and certainly, Bill Crawford was a human being, a good one.

"Snowball" could have robbed him and left him alive, but he wouldn't do that, there would have been a witness. The mostly white jury found James guilty and he was sentenced to death on October 25, 1979 after a trial, which lasted less than two days.

Emma's Trial

Built in 1915, in the Georgian style of architecture, the Lincoln County

Courthouse sits on a large tree-filled lot on a pleasant street in Lincolnton, Georgia. Made of weathered red brick "that were made on site" from locally dug clay, the building is decorated with four white Doric columns. The grey roof is crowned by a clock tower with a small white painted cupola. Large black letters inscribed across the pediment label the building's function. The structure is typical of many courthouses all across the rural south.

The two glass paned front doors lead into a cream painted hallway lined with pictures of current and past officials and a colored sketch of the building itself. The heart of the building, the courtroom is on the second floor, up a broad flight of polished hardwood steps.

The courtroom is immaculate. White painted wooden rails separate the observers from the tables and chairs arranged for the prosecution and defense lawyers. A similar railing divides the witness box and the space for the court reporter from the attorneys.

When court is in session, the judge sits behind an imposing desk several feet higher than the witness box in a large black leather swivel chair. The American and Georgia flags hang from stands on either side. The jury is seated to the left behind another white rail in black leather armchairs. Despite a costly restoration, except for the addition of computers, microphones, and the new Georgia flag which no longer features a Confederate ensign, the room has not changed very much in nearly 30 years.



On May 16, 2008, the sky is a cloud-filled blue and spring flowers are in bloom on the courthouse grounds, but the courtroom is shadowy and still. Emma sits in the witness box. She has not been back in this room since her trial for murder in 1979. She leans forward and rests her arms on the rail.

Emma sits quietly for a few minutes, and then the memories about her murder trial and her death sentence verdict bring slow tears to her eyes. Emma says, “The day of my trial the people sittin’ in the courtroom whisper among them while the lawyers and the judge talk to each other. The judge raps his little hammer and calls everyone to be quiet. They all hush up

like kids in school when the principal come down the hall.

When I was a chile’, I hate bein’ in school because I was teased for stutterin’.”

“It hurt my feelings when the teacher call out, ‘Emma Ruth make 67 on a test.’ I would put my head down on my desk because I usually know the answers, but I get so scared when they hand out the test that I kain’t remember nothin’. After I leave school, I never done think a number could ever make me feel so bad. But when the assistant district attorney read out in a loud voice, ‘The State of Georgia versus Emma Ruth Cunningham,

who by this indictment number 6757 is charged with the offense of burglary, armed robbery, and murder.’ That number made me want to hide. Six Seven Five Seven... Six Seven Five Seven.... It be like grades on a spellin’ test. You make 67. You make 57. Six seven Five Seven. Tha’s all I hear. The rest he read out don’t make no sense to me anyhow. The man go on readin’ and readin’ and readin’. I look up when he say ... ‘killed William B. Crawford by beatin’ the said William B. Crawford with a certain wrench.’ which had been introduced earlier as the murder weapon in James’ trial.”

Emma says emphatically. “Til my trial, I ain’t never seen a wrench that big.

They say I take it in my pocketbook, and when Mr. Crawford won't give us no money, James and I kill him. Tha's another lie. That wrench more than a foot long. How it gonna fit in no regular pocketbook? Them clothes they put into evidence in my trial were the things I give James for Christmas. Even the D.A., Mr. Goolsby, admit he don't have no evidence but me walking in the direction of Mr. Bill's house. They never can put me in that house when Mr. Bill murdered. Tha's 'cause I weren't there. I did not kill or help to kill that old man," Emma says scornfully. "They say I confess to killing Mr. Crawford, but I only sign what they give me to protect my children and my parents."

Decision for Bench Trial

Emma's court appointed lawyers,

Roger Dunaway and Robert Cofer, made the decision for her to have a Bench Trial because the death penalty had been introduced as a part of James' trial. Her lawyers had reason to believe that death would be a part of a guilty verdict in Emma's case as well. A Bench Trial is unusual for a murder trial because the judge makes all the decisions about the law and also acts as a one-man jury in evaluating the facts. The judge has control over the process of the trial as he normally would, but he is not supposed to make up his mind until he hears all of the evidence. It is one thing to believe the judge will be fair, and something else to have that always be true

The District Attorney Kenneth Goolsby was concerned about the possible legal issues, which might arise with a murder trial without a jury.

Because of the DA's apprehensions, Judge Stevens looked sternly at Emma and demanded, "Do you understand that without a jury this judge, myself, will be the only living person who will say whether you are guilty or not guilty?" Emma, who had been asked to stand, looked down at the floor and said in a barely audible voice, "Yes sir, I understands." Stevens asked, "Do you understand all of your rights under both the Constitution of the United States and the laws of the United States and of the State of Georgia?"

Since many college students could not answer this question with certainty, Emma's affirmative answer once again was based on her instructions rather than any real comprehension of what had been said to her. Then the signed and witnessed document of Emma's request for a non-jury trial was entered



The Lincoln County Courthouse

into evidence as proof that she was not influenced in her decision.

“Mr. Dunaway and Mr. Cofer told me to say ‘yes’ to all of those questions,” Emma relates. “I don’t have no clue about what a Bench Trial was or what

“They were going for the death penalty [in James’ case], and most of the community felt Emma was the one behind the murder. Everybody felt that she was the smarter of the two. They believed she had planned the whole thing, and that she was

peaceful solutions when arbitration was possible. His devotion to legal orthodoxy and the exact wording of the law was a part of his legacy of succeeding his father into the practice of law. He followed some internal and often, unpredictable

“No one who ain’t been there can imagine the agony of hopelessness and helplessness and loneliness ... Now we’re in a new century, but 1979 for me is still a reminder of the holocaust of what many blacks still face today—injustice, discrimination, and violent death.”

I say yes about or why the lawyers make that decision. Mr. Dunaway and Mr. Cofer have me write a letter that I sign. Them lawyers and my mama and daddy witnessed it on October 24, 1979, askin’ for this kind of trial, They filed that letter at 12:15 p.m. on October 25, right before they start my trial.”

When asked about Emma’s Bench Trial, the Honorable Roger Dunaway, now the Chief Judge of the Tombs Circuit, leans back in his swivel chair at his office in the McDuffie County Courthouse and reminisces about the attitude in Lincolnton toward Emma when he and the late Robert Cofer were appointed as her lawyers. Judge Dunaway, a distinguished jurist, who before his appointment to the bench, served as the county attorney, is a tall, slim man who, without any notion of a cliché, epitomizes the phrase “southern gentleman.”

“We decided on the Bench Trial,” the judge says, “because there was a lot of anger in the Lincolnton community. Mr. William Crawford was real prominent. He lived right across the street from the courthouse. Everybody was familiar with him.”

more responsible. Snowball’s case was tried first. We were struck by the fact that when his attorneys asked the jury if any of them had heard anything about the case, not the first hand went up. This murder case was obviously the most talked about thing that had happened in years, and people behaved as if they had never heard of the crime.”

“It was almost impossible to get a change of venue. Much harder than it is today,” Judge Dunaway continues. “Then, of course, Snowball was convicted. We felt like our best chance to avoid the death penalty was a Bench Trial. The issue, in this case, was whether or not a person who neither planned nor participated in a murder could be given the death penalty.”

“We decided our best chance was for the judge to look at the case unemotionally. Maybe we would come out with a better chance than before a jury. We had just seen what happened to Snowball and we knew everybody blamed her more than they did him.”

Judge Robert L. Stevens, a WWII Army veteran who had served in the Pacific theater in Burma, India, and China, was often an advocate for

logic in his decisions and would “show compassion in some cases, but [would] hammer you in other cases.” To the consternation of her attorneys, Judge Stevens after a brief period of reflection, returned to the courtroom and read his personally handwritten note into the record sentencing Emma to the death penalty.

Judge Stevens read the formal statement into the record: “It Is Considered, Ordered and Adjudged By The Court, that you Emma Ruth Cunningham, be taken from the bar of this Court, where you now stand to such place of confinement as the law provides, where you shall be safely kept and confined until you shall be removed and in the manner provided by law to such an institution where you shall be submitted to the penalty of death by electrocution, as provided by law, between the hours of ten o’clock in the forenoon and two o’clock in the afternoon on the 14th day of December, 1979, and may the Lord have mercy on your soul. This case is closed,” the judge said and got up and disappeared through a door into his chambers.

A deputy handcuffed Emma for the first time since her arrest and escorted



Elm Street in Lincolntown

her back to the jail. The bright sky had faded to a washed out grey and the air was cold on her bare arms. She stumbled and the deputy caught her. She could feel tears on her face, but they seemed to belong to someone else. She was locked into her cell, and the jailer turned out the lights. Emma sat on her cot. There was a faint light in the outer office.

She stared at the glow as if somewhere there would be an answer. She was not quite 28 years old and had spent her entire life just trying to survive. Even the GBI agents had said that she was very smart. She had worked as hard as she could. She took good care of her two children and loved them better than her own life. Her existence did not seem to matter at all. She had been given a death sentence for a murder she knew that she had not committed. A judge had said she was guilty of Mr. Crawford's homicide and had pronounced that she was to die on the 14th day of December 1979. She felt

like a drop of water suspended from the rim of a dripping faucet. The fall was inevitable and had no outcome but chaos and destruction.

Sitting in her immaculate living room thirty years later, Emma says, "Livin' on death row is pure hell!" Her voice shaking as she remembers, she adds, "No one else can know your circumstances. You don't really know when they are comin' to get you.

You never know when they will. It's so hard on a person. It's hard not to think about your death and bein' killed for no reason. Every time I heard the keys rattlin' in the locks, I would think that they were comin' to tell me, 'Emma Cunningham get yourself up. They are ready for you. Your appeal was turn down.'" Emma sighs, "No one who ain't been there can imagine the agony of hopelessness and helplessness and loneliness." Emma adds, "In prison you are still treated the same way as you are on the outside because you

black. Now we're in a new century, but 1979 for me is still a reminder of the holocaust of what many blacks still face today—injustice, discrimination, and violent death."

"I was stunned at Judge Steven's verdict," Judge Dunaway says. "I never believed what James Cunningham said about Emma," he adds emphatically. "I don't think he planned to murder Bill Crawford, either. When Crawford fought back, Snowball just panicked because he just kept beating and kept beating. The murder was horrible, bloody, and gruesome. I think the Lord was looking after Emma Ruth, when we finally got her death penalty sentence reversed on appeal. Her trial had a lot of bearing on how I looked at criminal cases. I think Emma's case really gave me a lot of sensitivity."

Emma, reflects on her life, "Ain't many people in this world ever had the experiences I had. Not many put on death row, and not many have the

gate swing open. I done for real been in the 'valley of the shadow.' Don't make me no better nor no worse than you. But what happen to me do make me see. I see with my eyes the crack in the sidewalk and the red flower on the bush. I see the rust on the gate and the tear in the eye. When you faced with death—when you know you ain't done the killin' and God save you from your doom, then everything become important.” Emma pauses, “...and then at the same time not important at all. You sees everything, because you might not never get to see with your eyes again—not by God 's choice but of the law. So I go out and speak against what I know is wrong. There ain't no way to argue with the fact like I say over and over that there more black people executed than white.”

Conclusion

“Who gets the death penalty is largely determined, not [solely] by the severity of the crime, but by: the race, sex and economic class of the criminal and victim,” says Judge Dunaway.

Who ends up on death row is subject to vagaries in the legal process. The death penalty is like a lottery, in which fairness always loses.

In the late twentieth century, statistics indicate that the overwhelming majority of those on death row who were African American were, as Emma Ruth Cunningham was, convicted for killing white victims. This is despite the fact that African Americans make up about half of all homicide victims. When African Americans commit crimes against white people, race becomes a more relevant issue, creating less objective sentencing decisions. Judges can be influenced by racial characteristics that “are influential in courtroom assessments of blameworthiness, dangerousness, and practical constraints.”

Poor people are also far more likely

to be given the death penalty than those who can afford the high costs of private investigators, psychiatrists, and expert criminal lawyers. Geography also plays a role. Since 1976, with the reinstatement of the death penalty after the Supreme Court Decision in the case of *Gregg v. Georgia*, 82% of all executions have taken place in the South.

As Senator Russ Feingold said in a speech on civil rights as a priority, “We simply cannot say we live in a country that offers equal justice to all Americans when racial disparities plague the system by which our society imposes the ultimate punishment.”

Emma's trial and death penalty conviction is an almost perfect example of each of these issues. The examination of her trial transcript clearly illustrates racial prejudice, jailhouse “snitch” testimony, introduction of misinterpretation of evidence, and community pressure for

her conviction. Within the framework of her story, perhaps understanding may be gained about the plight of individuals who through cultural and social circumstances are deprived of the benefits of education and the full weight of equality under the law. Yet it is not Emma's “troubles” that make her memorable, it is her remarkable and continued evolution that makes her an embodiment of Maya Angelou's wonderful lines: “You have tried to destroy me and though I perish daily, I shall not be moved.”

Ruth Johnson Carter is a Professor in the Department of Government and Sociology at GCSU Milledgeville, Georgia. She has known the subject of her paper, Emma Cunningham, for more than 20 years and immersed herself in Emma's world through intensive personal interaction and interviews with most of those connected with her life and the issues associated with the death penalty.



SERIAL

How did a story about a possible wrongful conviction make for the most popular podcast of all time?

BY LINDSAY LAFRENIERE

“One story, told week by week.”

This is how host Sarah Koenig describes *Serial*, now the most successful podcast of all time, in its intro. *Serial*, a spin-off of the much loved American National Public Radio (NPR) program *This American Life*, tells the story of the investigation into the 1999 murder of Hae Min Lee, a student at a high school in Baltimore, and the possible wrongful conviction of her ex-boyfriend Adnan Syed. Lee and Syed were smart, popular teenagers, both the kids of overbearing, immigrant parents. They dated and broke up, but still remained friends. She was strangled and her body was found in a park. Syed was convicted, based on his friend Jay’s testimony and little other evidence, and has been in prison since.

The podcast broke records, becoming the fastest to reach five million downloads from Apple’s iTunes store, not to mention streaming off their website, -- not included in that count. But it was not just passively listened to, listeners became actively involved in the story. A Reddit forum

dissecting *Serial* exploded; currently it has 43,391 subscribers and nearly reached 15 million page views in the month of December, when the series ended. Podcasts about the podcast, very meta indeed, blossomed, including one by *Slate* magazine and another with crime writers discussing the series. There are numerous satires of the show, in both video and audio. *Saturday Night Live* recently did a skit about the show -- possibly the meter for pop culture mainstream relevance. And outside the realm of pop culture, the Toronto police homicide squad has been tweeting out weekly clues about an unsolved murder, influenced by *Serial*’s approach.

But how did the podcast become so popular? True crime stories have been popular across television, film, and radio since their beginnings. And this is not a particularly unusual story. Compare it to say, *True Detective*, the crime television series that was broadcast in 2014, brilliantly told but unfortunately misogynistic and often compared to *Serial*, which was about a serial killer, belonging to a cult, who enjoyed raping and murdering women

in strange ritualistic ways. This murder story seems vanilla in comparison.

“[T]his is not an original idea,” Koenig told *The Guardian*. “Maybe in podcast form it is, and trying to do it as a documentary story is really, really hard. But trying to do it as a serial, this is as old as Dickens.”

Serial is masterful storytelling with rich characters, hallmarks of the best of *This American Life*. The story is told over twelve episodes, with much tape devoted to phone conversations with Syed who has been in prison for the past 15 years. The most jarring thing about the Syed interviews, to both Koenig and listeners, is that he seems completely unlike our collective image of “murderer.”

“[N]ot just a good kid, but an especially good kid-- smart, kind, goofy, handsome,” are the first references to Syed. “He was like the community’s golden child.”

The main story of the whole series, the main question, is: did he really do it? It’s a continuous up and down between

innocence and guilt, from the charming voice we hear on the phone, the inconsistent stories that never seem to match up and the sparse evidence that convicted him, with no DNA links, to the overwhelming question, if not him, then who?

Koenig herself continuously questions Syed's innocence and then her own evaluations and assumptions.

"That's my fear, I'm going to get through all this and then be like... I don't know," she says.

Serial was aired as it was made, Koenig said in interviews that she was discovering this evidence at nearly the same time we were. And unlike most true crime, there was no ending in place at the beginning. Koenig had no idea if she'd come to a conclusion or find the essential information needed to solve the mystery. As listeners, we've come to assume that the person telling us the riddle knows the answer. Even if the mystery seems impossible to solve, Sherlock will reveal all to us right in the last ten minutes through absurd reasoning we wouldn't be able

to scratch. This being a real-life, fifteen-year-old cold case, the ending, unsurprisingly, disappointed many people. But this format also invited listeners to tease out the details of the crime along with the producers, in the hopes that solving it was possible.

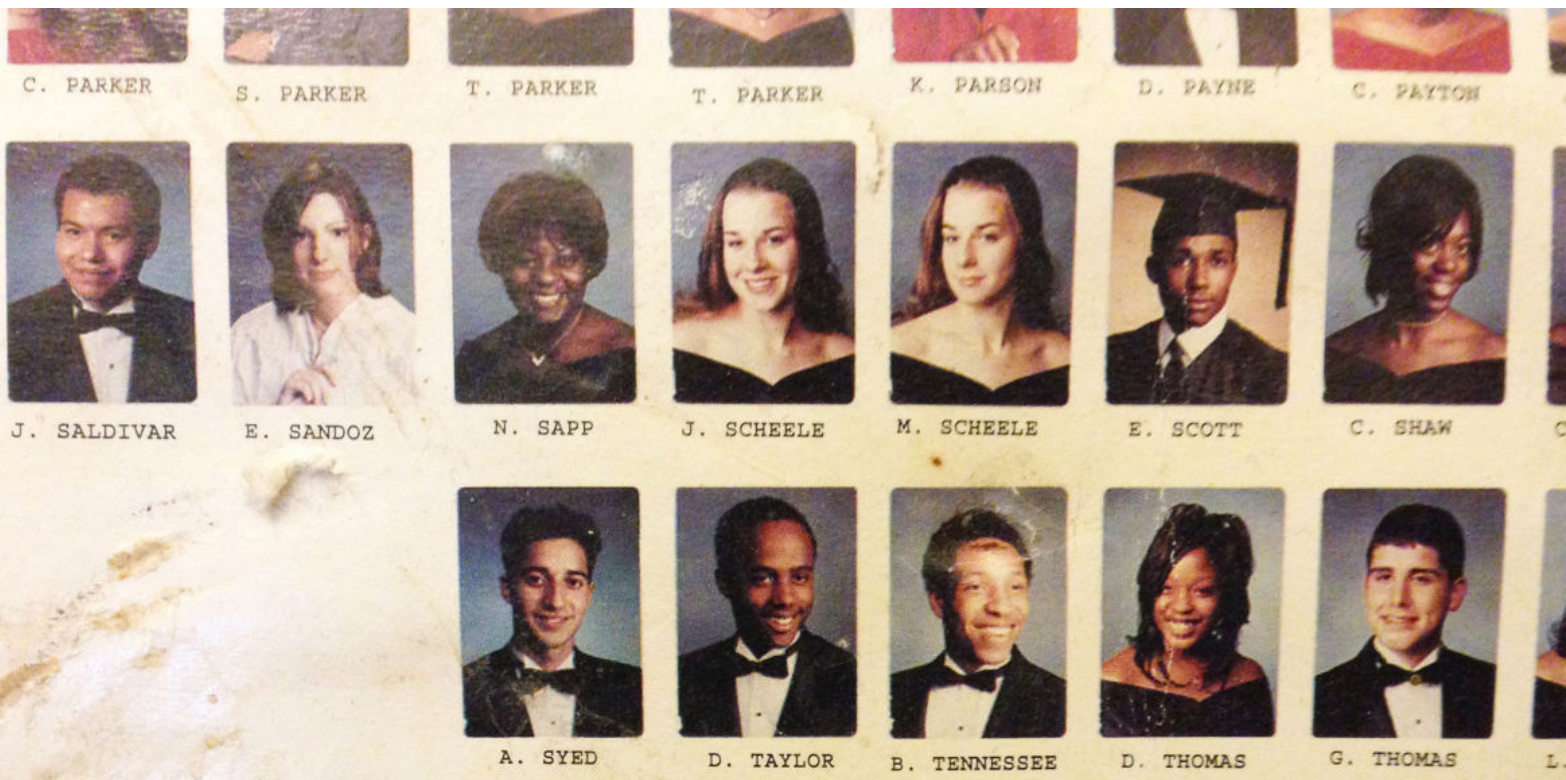
Koenig is excellent at conveying emotion, sucking listeners into the drama of the investigation, and how we might feel in the situation. One of the tensest scenes see her and producer Julie Synder go to meet Jay, the friend who states he helped Syed bury Lee after killing her. These women are not only extensively investigating a possibly very traumatic event in this man's life fifteen years ago, but also producing a podcast saying that he probably lied to get out of going to jail for murder. Showing up to his door unannounced would make a very uncomfortable situation. Not only that, but eight episodes in, listeners are dying to hear Jay's perspective.

"I am so hyped up, listening back to the tape, I wanted to give myself a Xanax," says Koenig, looking back on that meeting. Where some jour-

nalists may want to play it cool and seem polished and professional approaching an interview subject, *Serial* gives us a very human experience of this encounter. Koenig and Synder record their conversation in the car beforehand – the atmosphere is tense and Koenig is speaking incredibly quickly.

"I feel super excited to talk to him, like so excited to talk to him, I can't tell you," says Koenig in a frantic ramble. "Like, if this works, he knows, he knows everything we want to know, every question we've had for the past eight months. Seven months, he knows it. Whether or not he tells us is a different thing but he's a treasure chest of answers that we've been looking for this whole time and he has it, he's it. But, whether or not he opens the door, or if he's even home, we don't even know if he's home!"

The show is also compelling because of its excellent writing, Koenig places signposts throughout, such as: "If you want to figure out this case with me, now is the time to start paying close attention, because we have arrived,





along with the detectives at the heart of the thing.”

She commands her listeners to sit up and pay attention, which can be important in a story filled with what can be tedious small details, like cell-phone records and court proceedings.

Koenig becomes baffled with the processes of the legal system, echoing the reactions of many listeners to some of the statements by the lawyers and detectives. It’s revealed that the detectives that interrogated Jay didn’t start recording his testimony until three hours into the interview, nor did they search his house or give him a polygraph. Koenig’s team hired Jim Trainum, who used to be a homicide detective in Washington D.C, to go through the evidence. Much to the audience’s surprise, he says this investigation is better than average and that the detectives were “cautious and methodical.”

“The fact that we have an excellent witness-- we’ve got somebody who is giving us the whole case right here, he’s broke it wide open for us, we

don’t want to ruin him, you know? So how much do you want to push, how much do you want to create ‘bad evidence?’” says Trainum.

“But, see-- I don’t get that,” says Koenig. “I mean that’s like what my father always used to always say, ‘all facts are friendly.’ Shouldn’t that be more true for a cop than for anyone else? You can’t pick and choose.”

The show raises more questions than it really answers. Koenig says to Deirdre Enright, a lawyer in a similar case and head of the University of Virginia School of Law Innocence Project, that “Adnan himself is not supplying anything super useful to say ‘here’s why I can prove I didn’t do this.’ He has said out front ‘I can’t give you some clinching piece of information or evidence that’s going to solve this, I wish I could but I can’t. I just don’t have it. I don’t know how to prove this.’”

To which Enright responds, “I love hearing that because somewhere along the line I’ve started realizing that when you have an innocent client, they are the least helpful people

in the whole world, because they *don’t* know. They don’t-- they have no idea, like as soon as I realize I have an innocent client and that’s the situation, I think like, ‘okay well I’ll talk to you again when I’ve solved it, because I’m not gonna need you here.’”

And this is the assumption that listeners work from. We assume Syed can explain it all to us if Koenig can cunningly tease it out of him. There is the nagging feeling that someone must be lying about something. But beyond reasonable doubt is the legal standard for criminal convictions in the case of homicide. That may be the greater nagging feeling one has at the end of *Serial*.

“As a juror I vote to acquit Adnan Syed,” concludes Koenig. “I have to acquit. Even if in my heart of hearts I think Adnan killed Hae, I still have to acquit. That’s what the law requires of jurors.”

Lindsay Lafreniere is IAFOR’s Communications and Publications Coordinator.

In the Pursuit of Justice

Alec Klein and the Medill Justice Project

Interview by Richard Roth. Words by Lindsay Lafreniere.

A group of researchers, in the May 2014 Proceedings of the National Academy of Sciences, published statistical research stating that 4.1 percent of American criminal defendants sentenced to death have been falsely convicted. A group of students at Northwestern University's Medill School of Journalism, Media, Integrated Marketing Communications is working to rectify this.

"Over the course of 15 years, students at Medill have done incredible life-changing work," says Alec Klein, director of The Medill Justice Project and professor at Northwestern University. "They have investigated murder cases where people say that they have been wrongfully convicted. The work of our students over the last 15 years has played a role in the exoneration of many prisoners including some who were on death row. The student's work helped inform the Illinois Governor's decision to abolish the death penalty."

Klein brought two decades of experience as a newspaper reporter, including experience at the Washington Post as an investigative reporter, to Medill when he joined in 2008.

"Being an investigative reporter is humbling because it is hard work and slow going," says Klein. "You work hard but you fail often, but when I was at the Washington Post I was fortunate enough that they gave me the time to really dig into stories, sometimes a year on just one story. The impact of the stories was sometimes even hard to fathom. The ability to uncover evidence that will lead to hearings on Capitol Hill or GAO reports, federal law, things like that have a lasting impact. It is something that I hope to impart to our students."

Klein's class is supported by the Medill Justice Project and consists of ten students, in their third or fourth year of study. The term lasts just ten weeks.

"The term goes by at warp speed. The students hit the floor running and are at it sometimes 24/7," says Klein. "Sometimes I have to remind them to take their other classes seriously because they get so consumed by these investigations. They are so passionate, they are so swept up in it, so determined to discover the truth and make a difference. These are students who have other lives but they are still capable of doing life-changing journalism."

The Medill Justice project has created a database on shaken-baby syndrome cases in the USA, which has become the largest of its kind in the world. This past February, the Project launched the Journalism Justice Network, to further their work to a larger network of journalists and organizations.


"I decided to create the Journalism Justice Network for a simple reason: There is a need for it," says Klein. "Wrongful convictions remain an issue not only in the United States but throughout the world. And it is my belief The Medill Justice Project

shouldn't have a monopoly on this important work. We can help others—universities, nonprofits, media organizations, individuals and others—to create their own projects to investigate potentially wrongful convictions or examine criminal justice issues in their own communities and nations. I believe what we do is a public service and we are happy to share our knowledge with others."

The Journalism Justice Network members currently include justice projects across the United States and also in the United Kingdom.

"One of the biggest success stories for the Journalism Justice Network is we have grown from a network of one—The Medill Justice Project—to an international community of five projects in little more than a year," says Klein. "And in that brief span, our members have already produced breakthroughs in their investigations, including at the UWT Justice Project in Tacoma, Washington, and at Oklahoma Journalists for Justice in Tulsa, Oklahoma."





“What a
cool liar
you are,
Melly”

Hollywood
legend Olivia
de Havilland
as the bad girl

By Victoria Amador

In August 1943, Olivia de Havilland took Jack Warner to court. The head of Warner Brothers had refused to release the actress from her seven-year contract on its designated ending date, and instead had extended the contract twenty-five weeks. This add-on was due to de Havilland's choosing suspension—quite frequently—over ingénue roles in predictable programmers. It was standard procedure by the studios to tack on the time missed to a performer's contract, making actors a highly paid species of indentured servant.

Other Warner Brothers performers and indentured servants had also taken on Jack Warner. James Cagney continually went on suspension, and when his contract ran out, he became one of the first Hollywood stars to negotiate roles as a free agent, negotiating from film to film rather than signing on to a major studio. Unwilling to wait out her seven years, Bette Davis went to court over this issue in 1936. Davis had shared de Havilland's frustration at being molded as a type rather than an artist, also going on suspension rather than appearing in weak films; she too wanted to direct her career more independently and successfully. Davis, despite trying her case in the London courts in the hope of a fairer hearing, had failed. However, fortunately for Davis, Jack Warner recognized her value to the studio in terms of box office as well as her artistry (she had won her first best actress Oscar in 1935 for *Dangerous*); after her attempt at rebellion, she was given better roles and began her ten-year run as the queen of the studio.

Enter Olivia de Havilland. The sweet heroine of the Errol Flynn epics. Melanie Hamilton Wilkes in *Gone with the Wind*, for which she received her first Oscar nomination (as best supporting actress), "as simple as earth, as good as bread" (Mitchell, 1936 [1947]). She of the heart-shaped face, liquid diction, warm brandy voice, and doe eyes. An actress described by Molly Haskell as one of a group who were "the sunny side of a decade". A performer James Agee called "one of the prettiest women in movies". A star "whose delicacy and daintiness were enormously winning". A lady.

This delicate actress, creating a persona as a spirited lady in her screen performances, charming and gracious and a recipient by 1943 of two Oscar nominations (the second for 1941's *Hold Back the Dawn* at Paramount) earned for work done away from her home studio, hauled Jack Warner into court to challenge his and other studio moguls' contract policies. Her decision cost de Havilland \$13,000 of her own money and kept her off the screen until 1946. Not only couldn't she work during the litigation, but Warner sent a letter to 77 studios and production companies, effectively blacklisting her from appearing in other vehicles at other studios.

However, with a resourcefulness befitting Melanie (or, more appropriately, Scarlett O'Hara), de Havilland worked in radio and toured with the USO, and in May 1944 the Superior Court of California found Warner Brothers in violation of that state's anti-peonage laws. Now known as "the de Havilland decision," this ruling contributed to the end of the contract system and the rise of the actor/agent relationship. It is even recalled today by such actors as Oscar winner Jared Leto, who with his music group Thirty Seconds to Mars is involving the decision in a music company battle and has actually spoken to de Havilland about it (O. de Havilland, personal communication, 5 May 2014). The ladylike Olivia had conquered the only mountain that tough Bette Davis, nicknamed the fifth Warner Brother, couldn't climb.

Davis saw the titanium strength behind the genteel exterior. She spoke of de Havilland in her autobiography, *The Lonely Life*, as an "artist who had integrity, [and] the will for holy battle" against "the medium which stupidly resisted its own enrichment". Davis also contributed a foreword to Tony Thomas's entertaining career overview, *The Films of Olivia de Havilland*. She noted that "Olivia should be thanked by every actor today" for breaking the "potential contract for life" system, and also commented that de Havilland "after her Warner contract was over... overcame her beauty to triumph as an actress".

De Havilland's triumph is, well, almost like a movie. After leaving Warner

Brothers, she signed a three-picture deal with Paramount and scored an Oscar in 1946 for *To Each His Own* as an innocent illegitimate mother turned hard-headed business woman, the soft exterior belying a steel spine. In 1948 she made 20th Century Fox's *The Snake Pit*, a landmark film about the horrors of mental institutions, and won another Oscar nomination as well as the New York Critics Circle Award. Her run of retributive good roles culminated in her performance as Catherine Sloper in Paramount's *The Heiress* (an adaptation of Henry James' *Washington Square*) for which she won her second Best Actress Oscar and another New York Critics Circle Award in 1949. Oh, to have been a fly on Jack Warner's wall that year.

This period was without question the pinnacle of de Havilland's career. However, the actress worked steadily in film, on stage, and on television until 1988, receiving her last major industry award in 1986, when she won a supporting actress Golden Globe and an Emmy nomination for her role in the television film *Anastasia: The Mystery of Anna* at age 70. She raised two children, wrote a memoir of her second marriage entitled *Every Frenchman Has One* (referring not to the obvious but rather to "the French liver"), suffered through a lengthy, ultimately unsatisfying love affair with John Huston, and reportedly endured a long feud with actress/sister, the late Joan Fontaine, which only ended with Fontaine's death in December 2013. Such strength demonstrates the "enterprising" woman within.

One always thinks of *Gone with the Wind*'s iconic heroine, Scarlett O'Hara, as the tough survivor whose moral compass goes awry in lieu of her need to survive the harsh years of the American Civil War. Yet Melanie Hamilton, the sweet sister-in-law whose fragility and marriage to Scarlett's desired Ashley Wilkes provokes Scarlett more than the damn Yankees, gives birth as Sherman approaches, provides succor to virtually all of the novel's characters, and dies a martyr's death. Her toughness matches Scarlett's, and in the characterization supplied by Olivia de Havilland in her most enduring role, Melanie's unconditional love and

ineffable strength center the film.

To moviegoers worldwide, de Havilland remains frozen in time as Miss Melly, the soft-spoken woman who put love and loyalty above all else, in a role the actress has described as her favorite. Olivia de Havilland's screen/star identity replicated that career-defining role, with the actress presenting over the years a palatably sincere Coventry Patmore-esque "Angel in the House" in many of her ingénue pairings with Errol Flynn, and in later film roles. Equally, in interviews, de Havilland always presents herself with elegance, the ultimate uber-lady. An announcement in *The New York Post* in October 2013 that she would make an appearance at TCM's 75th anniversary screening of GWTW (sadly reconsidered as a taped interview with Robert Osborne due to her ill health) further reiterated

the legacy of Melanie, which she has created and encouraged.

There is an irony in this, for Olivia de Havilland has proved at every turn in her life to have just as much gumption and steel in her character as her Melanie and the feisty, fiery Scarlett O'Hara. She may have looked the prototype of the sweetly appealing film heroine, but at heart she has always been a maverick with a flinty streak and the courage and determination to fight for her independent viewpoint.

It is de Havilland's uncharacteristic roles, which provide viewers with an insight into the actress who won two Oscars and five nominations, whose lawsuit against Warner Brothers changed forever the studio contract system, and whose remarkable internal strength has brought her to her 98th birthday with her wit and memory

intact. This paper will explore several films, which afforded de Havilland challenges to her proper persona, demonstrating an intriguing ability to explore dark, dangerous characters. Specifically, her performances in *The Dark Mirror* as twins, one good and one homicidal; as a decidedly prickly Charlotte Bronte in *Deception*; in *My Cousin Rachel* as the eponymous *femme fatale*; and in *Hush...Hush*, *Sweet Charlotte* as a sugary foil to Bette Davis offer another perspective upon de Havilland's career. These are not the heroines for which the actress is remembered, yet they demonstrate her artistry as vividly as her better-known, gentler incarnations.

***Devotion*—“They called them free souls!”**

This film was the last de Havilland made under her Warner Brothers



Ida Lupino and Olivia de Havilland in *Devotion*.

contract before she took the studio to court, but it was not released until 1946, not only because the film was not particularly strong, but also as a way of keeping de Havilland off screen during the trial. This highly romanticized story of the Brontes had been planned for years, and “the studio believed [it] would be in the same league with their successful biographies about Emile Zola, [and] Louis Pasteur” (Thomas, 1983). But by the time production began in November 1943, rather than starring Bette Davis and Miriam Hopkins as originally planned, the film gave Ida Lupino the lead, as a sensitive and dreamy Emily, over de Havilland’s pushy, unsympathetic Charlotte. Arthur Kennedy played the doomed, drunken Branwell; contract player Nancy Coleman was a pallid Anne; and Paul Henreid appeared as Arthur Nicholls, the curate who eventually married Charlotte. In this version, Emily and Charlotte are fighting for Arthur’s affections, a radical departure from the truth. De Havilland was given what should have been the plumb role of *Jane Eyre’s* author, but she disliked the screenplay by Theodore Reeves, Keith Winter, and Edward Chodorov, and the supporting nature of the role. While the trailer of the film declared, “They called them free souls!” that irony could not have been lost on the unhappy actress. That her sister, Joan Fontaine, was portraying the eponymous heroine of *Jane Eyre* in a prestigious production with Orson Welles could not have made matters easy.

This version of the Brontes makes Charlotte a bully, an “unscrupulous ruler of the Bronte ambitions” (Katz, 1976), despite her sisters’ retiring nature. Conscious of her screen persona, this could not have made the actress happy. Although she wrote to me in a recent e-mail, “I do not remember that any of the characters in this film were dark or enigmatic,” her Charlotte was certainly the former in her unsympathetic badgering of her sisters and her brother. Additionally, de Havilland was extremely contentious during the making of the film, and co-star Henreid mentioned her difficult behavior in his autobiography: “Stars are not vulnerable women,” he wrote. “To get to the top you must have an aggressive nature. But of all the

women I worked with, Ida Lupino seemed the most vulnerable. She was a soft person with a great sense of sweetness about her, but anything that might have developed between us was destroyed by Olivia’s machinations.”

The director, Curtis Bernhardt, was also frustrated by de Havilland’s attitude on set. Jeremy Arnold notes, “Bernhardt found Olivia de Havilland (Charlotte Bronte) much more difficult to work with,” describing how she fought him on the simplest staging instructions. “Lupino,” he said, “was more accessible artistically than de Havilland during the making of the film. De Havilland became really obnoxious.”

In defense of the actress, she had two Oscar nominations at this point. Ida Lupino was considered, however, the greater star at Warner Brothers. This after de Havilland’s string of eight box-office successes with Errol Flynn was a bitter pill for her. She was also given third billing, after Lupino and Henreid, and that too could not have been easy. De Havilland was coming off of a string of pleasant but unremarkable films; even *Princess O’Rourke* (1943), which won Norman Krasna an Oscar for best original screenplay, cast her as an ingénue, nothing more. Her ongoing love affair at the time with John Huston may also have contributed to her frustrations, as not only was the maverick director a free soul, he was also married and proving to be difficult to entice into a commitment. He had also directed her in 1942’s *In This Our Life* with Bette Davis, guiding her to a mature performance as a long-suffering but invincible sister to Davis’s spoiled protagonist. Hence all of this contributed to the creation of a disagreeable actress who

Olivia de Havilland has proved at every turn in her life to have just as much gumption and steel in her character as her Melanie and the feisty, fiery Scarlett O’Hara.

was about to sue her employer, to whom she referred in private as “Jack the Warden.”

De Havilland was known also for becoming ill when she was frustrated at the studio. During the wardrobe and makeup tests, she “was also afflicted with an odd sickness in her legs, which broke out in large swellings that made it almost impossible for her to walk” (Higham, 1984). It is difficult to ignore the metaphor of being unable to run away from the studio and the film.

To give Jack Warner credit, he changed the script so that de Havilland would get the closing shot with Henreid after Lupino’s death; “he wanted to have de Havilland end up with Henreid at the film’s climax because winning the leading man’s heart would help build de Havilland’s stardom, and her future box office power.” However, Lupino had been told *she* was to have the closing shot, and when she learned the truth, she was devastated. She cried to her co-star Henreid, who pronounced, “Olivia is a troublemaker.” It is ironic that in a scene as Arthur Nicholls with de Havilland’s Charlotte, Henreid intones with complete sincerity, “There are two ways of dealing with young ladies of your perverse temperament, Miss Bronte. It is fortunate for you that I am not a woman beater!” The kiss that follows that declaration is not only unromantic; it looks as though the actor wants to shatter de Havilland’s mouth with his teeth.

So Olivia’s Charlotte may not have had top billing and may have been written—and acted—as a bitch, but she did get the all-important closing scene. And even though the film is disparaged by most scholars because of its Hollywood-ized view of the Bronte



Olivia de Havilland playing twins in *The Dark Mirror*.

family, de Havilland is gripping in the role. Going against her usual persona of rational, bemused, intelligent spirit, she is strident, needy, bossy, and deliciously unpleasant.

At the age of 27, her young and rather soft prettiness is settling into more interesting angles and planes. The ringlets she wears thanks to Perc Westmore do not mirror the simple, smooth style worn by the real Charlotte in the portraits we have of the author, but they frame the actress's face becomingly. Her flowing, hoop-skirted costumes, designed by Milo Anderson, are tremendously flattering to her figure. Vocally, de Havilland is also more interesting, utilizing a lower register in the romantic scenes with Henreid, further contributing to a Charlotte with a dark edge. The great Ernie Haller photographs de Havilland flatteringly, so if she must be cast as a perverse heroine, a real/reel life Becky Sharp, she certainly commands her scenes with her beauty and intelligence.

In fact, one of her best scenes features the fabled meeting between Charlotte and author of *Becky Sharp*, William Makepeace Thackeray. As portrayed by Warners contract star and fabled

"Fat Man" from *The Maltese Falcon*, Sydney Greenstreet, Thackeray is like a Father Christmas with great appreciation for the young writer, and their exchange is spirited and lively, both enjoying their witty repartee.

Yet why Charlotte is so unpleasant is never clearly articulated in the script. She seems flighty, wanting one minute to publish and the next to pursue the legendary M. Heger, the Brussels school principal who oversaw the real Charlotte and Emily's training as future governesses. Charlotte's motivations aren't clearly developed, yet de Havilland makes something of the woman. Her desires are built on a need to see the world, just as Emily's are built on a need to enclose her own. She feels the weight of her siblings' fortunes on her shoulders, particularly given the tragic failures of Branwell. There is fierceness in de Havilland's portrait of Charlotte, and the steel backbone of the actress shows through in the character she plays.

The film was not reviewed particularly well. Bosley Crowther wrote in *The New York Times* that "Olivia de Havilland plays Charlotte with a vast deal of pretty arrogance" but that the film "[p]resented as the story of

the Brontës...it is a ridiculous tax upon reason and an insult to plain intelligence." Today, however, we can view the film as a romanticized but occasionally intriguing view of a mythic family, told through the black and white lens of 1940s studio filmmaking, featuring some of Warner Brothers' finest contract players.

The Dark Mirror

The first important film de Havilland made after her lawsuit win was her 1946, Oscar-winning triumphs, *To Each His Own*. However, before that triumph, the actress was working again despite her legal battle with Jack Warner. She returned first to movie audiences thanks to Paramount's 1946 tepid romantic comedy *The Well-Groomed Bride*. Originally scheduled to star Paulette Goddard, who became pregnant, de Havilland agreed to make the rather predictable programmer because Paramount agreed to work with her, even though the Supreme Court of California hadn't yet made a decision on her legal clearance from Warner Brothers. While her co-star was Oscar winner Ray Milland, the film is hard work for actors and viewers alike.

Also in 1946, she made *The Dark Mirror* for Universal, and while this was not a particularly huge box office success, nor an Oscar-winning opportunity, it offered de Havilland “the challenge of playing two roles in a film...no red-blooded actress can resist” (Thomas, 1983). In fact, this film replicated once again her friend Bette Davis, who in the same year portrayed twins in *A Stolen Life* (brilliantly parodied on *The Carol Burnett Show* as *A Swiped Life*, complete with foghorn bellows), and again in 1964’s *Dead Ringer*. The film allowed de Havilland to stretch her acting chops with two roles in one film, portraying one good sister and one who is described by psychiatrist and shared love interest of the twins Lew Ayres as “completely insane” (*Dark Mirror*, 1946).

Psychiatry and psychological exploration in films was increasingly popular after WW2; Alfred Hitchcock’s 1945 *Spellbound*, with the dream sequence designed by Salvador Dalí, established the template for such films. It was logical that de Havilland’s search for roles to establish herself as a serious actress would lead her to films addressing the rising American interest in psychotherapy. Vladimir Pozner’s original story was nominated for an Oscar, and the actress insisted that all of the cast members meet with a psychiatrist. The script was written by Nunnally Johnson, a triple-threat screenwriter, director and producer whose interest in psychological issues mirrored de Havilland’s. She received her fourth Oscar nomination for 1948’s *The Snake Pit*, and Johnson not only wrote the screenplay for *My Cousin Rachel* but also wrote and directed 1957’s *The Three Faces of Eve*, based on the true story of multiple personality sufferer Chris Costner Sizemore, which resulted in Joanne Woodward’s best actress Oscar. And despite mixed reviews, the film was remade for television in 1984 with Jane Seymour.

De Havilland’s twin sisters, Terry and Ruth Collins, refuse to incriminate each other when an acquaintance of both is found stabbed in the heart. While one of the women was seen by neighbors, neither will compromise the other’s alibi, so it is up to psychiatrist Lew Ayres and detective Thomas Mitchell to concoct

a way to determine the true murderer. While Ayres examines both sisters, determining the madness of Terry rather simply—through the use of Rorschach ink blots—the subtle and growing differences between the sisters develop thanks to the artistry of de Havilland and her director, Robert Siodmak.

De Havilland reminisced about her preparation for the role and said, “[W]hen the dialogue director and other members of the company joined me for an informal appointment with a psychiatrist to gain insight into Terry’s psychotic condition...we asked her about the Rorschach Test, to which Terry had submitted.” And the result? “The doctor...swore us to secrecy and then divulged the key to that test. This secret...I have kept all this time” (O. de Havilland, personal communication, 7 January 2015).

Siodmak directed the great psychological thriller *The Spiral Staircase*, still chilling despite its now-primitive diagnosis of the mentally disturbed. Utilizing a “film noir technique... [t]he nuances emphasized by Siodmak’s lighting enable de Havilland’s divided sisters to assume complexities not evident in their earlier scenes” (Kass, 1976). He guided de Havilland into a new persona—complex, sexual, and lethal. While her Ruth is sweet and charmingly feminine and feisty, not unlike the Errol Flynn heroines of

yore, she employs a lower vocal register to demonstrate that at 30 years old, Ruth and Terry and Olivia were independent working women, and that these ladies were not for burning by anyone—not the psychiatrist or the police in the film, nor Jack Warner.

De Havilland brings a new maturity to the role of Terry particularly, the murderess. She smokes, while Ruth doesn’t. De Havilland does smoke occasionally on film, but this is something unusual for the actress. Her Terry is also confrontational, manipulative, and ruthless (pun intended). When she is interviewed using the Rorschach cards, she notices psychiatrist Ayres watching her, and her responses to his questions about what she is seeing are cold and clever. She wants to date the doctor and she makes the first move—“Will we see each other outside of your office?” Her posture is stronger and her figure shapelier, almost in anticipation of the transformation she will undergo as Catherine Sloper three years later in *The Heiress*. There’s a subtle sexuality in her gaze as Terry, and her overall subtle shifts in two twins who must be close enough in appearance to fool a wise policeman are effective and fun.

Bosley Crowther, the legendary film critic for *The New York Times* and a notoriously crotchety reviewer, didn’t enjoy the film. He particularly criticized her performance, saying, “Olivia de Havilland is the dual lady,



and for the life of us we never were sure when she was being Ruth, the good sister, and Terry, the evil one. Or, was it the other way around?" But to play them as extreme characters, or with wildly different personalities, would be an absurd choice. Siodmak guides her to a very complex depiction of two sisters who are too tied to one another and yet too different to be truly sisterly. De Havilland herself said of playing a bad sister, "Terry...was so dark and so evil that playing her was an extremely painful experience for me—one I would never, ever, want to repeat" (O. de Havilland, personal communication, 7 January 2015).

On the other hand, critic James Agee wrote in *The Nation*, "I very much like Olivia de Havilland's performance....

[Director Robert Siodmak] guided de Havilland into a new persona—complex, sexual, and lethal.

her playing is thoughtful, quiet, detailed, and well sustained, and since it is founded, as some more talented playing is not, in an unusually healthful-seeming and likeable temperament, it is an undivided pleasure to see." Jeanine Basinger, in her insightful book *A Woman's View*, notes that the bad sister, Terry, is a frightening portrayal of "a domineering menace, full of anger, and a murderess." Coldly staring out from behind the lovely de Havilland eyes, Terry portends the actress's graceful movement from one potentially malevolent manipulation to the next in her incarnation six years later as a nineteenth century temptress.

My Cousin Rachel

Although her late sister, Joan Fontaine, earned a reputation as a Daphne du Maurier screen heroine for her work in *Rebecca* (1940) and *Frenchman's Creek* (1944), de Havilland earned her opportunity in 1952's *My Cousin Rachel* for Twentieth Century Fox. This was to be her return to the screen after her 1949 best actress Oscar for *The Heiress*. Preoccupied with

Broadway roles in *Romeo and Juliet* and *Candida*, raising her young son, and divorcing his father and her first husband, author Marcus Goodrich, her return to the screen "is notable for providing de Havilland with one of the few interesting roles she would have in the next three decades and as Richard Burton's American film debut" (Kass, 1976).

The film was troubled. George Cukor, her great friend and original director on *Gone with the Wind* (who famously directed de Havilland and Vivien Leigh on the sly, away from the set, after he was fired and replaced by Victor Fleming), had read Nunnally Johnson's adaptation of du Maurier's film, and first he tried to lure Garbo out of retirement. Failing that, Cukor

visited du Maurier in Cornwall and realized a good film of the novel had to be filmed on location. But Darryl Zanuck at Fox refused to do this. Next Vivien Leigh turned down the picture, so Cukor dropped out of the project.

Then Mitchell Leisen, whom de Havilland adored and who had guided her to her 1946 Oscar for *To Each His Own* was supposed to direct, and de Havilland signed on enthusiastically. But Paramount wouldn't loan him. Another director who was considered was "Carol Reed...who was... chosen to direct the movie and then was unable to fulfill the assignment because of a conflict of dates" (O. de Havilland, personal communication, 7 January 2015). He was replaced by contract director Henry Koster. While Koster provided "sympathetic direction" (Higham, 1984), one can't help but wonder what the film would have been like with Cukor or Leisen or Reed in charge.

While the screenplay by Johnson successfully condensed the highlights of du Maurier's disturbing study

of a lethal woman, the presence of Richard Burton, Fox's new star on the rise, dominated the film's story. And although her appearance as the black widow Rachel Sangalietti Ashley intrigues the audience, providing a 36-year-old actress with a new sensuality and grace, her appearance twenty minutes into the film, and the uncertainty at the end of the film concerning her real motives leave the film somewhat unsatisfactory. When de Havilland was asked "whether the central figure of the story was guilty or innocent, she smiled and declined to answer" (ibid.).

Recently, she discussed her preparation for the role of Rachel:

"In preparation for *My Cousin Rachel*, I had to know whether Rachel was guilty or innocent before I could portray her. After reading the book twice, I still had no idea, which she was. I read it a third time, and this time I thought I knew. It was now my task to play every scene so that she could be interpreted either way, thus fulfilling du Maurier's intention.

Some years later I met du Maurier's great friend, Carol Reed, the brilliant British film director...I asked Carol Reed if du Maurier had confided to him the secret of Rachel's guilt or innocence, saying that I had read the book three times before perceiving what I was sure was the truth, and was eager to know if I had guessed correctly. He swore me to secrecy and then let me know what du Maurier had told him. To my great delight it was the same as my conclusion. This is the secret I have kept all these years" (O. de Havilland, personal communication, 7 January 2015).

As the title character, de Havilland offers viewers and inscrutable "heroine." Is Rachel simply the sophisticated, continental widow of Richard Burton's dead uncle, or is she a poisonous Borgia who murdered one rich man and then seduced his heir? Jeanine Basinger, in her insightful book *A Woman's View*, comments, "Burton is Eyre to Olivia de Havilland's Rochester". Her Rachel is a mysterious temptress who allows herself to be draped with jewels by her young lover while brewing a *tisane* for his health. And we never

know whether that special tea is aphrodisiacal or arsenical.

De Havilland's Rachel displays her credentials as a possibly lethal aunt when we see her continental seduction of Burton's Philip. She invites him to her boudoir, where she has befriended his pet dog. In fact, as she pets the dog, he takes to chewing on her fingers, and she handles the over-friendly canine with affection while at the same time focusing solely on Philip. She tells him he's welcome to smoke. Her Rachel, through feminine maturity, insinuates herself into the lonely young man's heart with her candor, her smiles, her flirtations, and her link to his dead uncle. De Havilland's demeanor, her slight smiles, and her ironic brave helplessness make her the perfect conqueror of foil Burton.

When we see them kissing (always long, passionate embraces), when he places jewels around her neck, when he gazes at her lovingly and she returns affection with a brief, slight smile,

we see a new actress. She's with the new heartthrob of the screen. She's winning his affection—believably—from the young, fresh Audrey Dalton as Louise, the ingénue in love with Burton's Philip. She entertains her old friend and Philip's perceived rival Guido Rainaldi (George Dolenz) in Philip's country home and despite the obtuse nature of their relationship—are they merely friends? Lovers? Did she cheat on Philip's uncle with Rainaldi?—she retains Philip's devotion.

In a wonderfully romantic dream scene, when Philip is ill with fever (or did Rachel make him ill and then restore his health?), the young man dreams he has married her, and de Havilland is beautiful in this soft-filter scene as his bride. To use contemporary colloquial language, she is the ultimate cougar in this scene, desirable and mature.

This scene follows Rachel's dramatic turnabout after Philip's 25th birthday, when he comes into his majority and

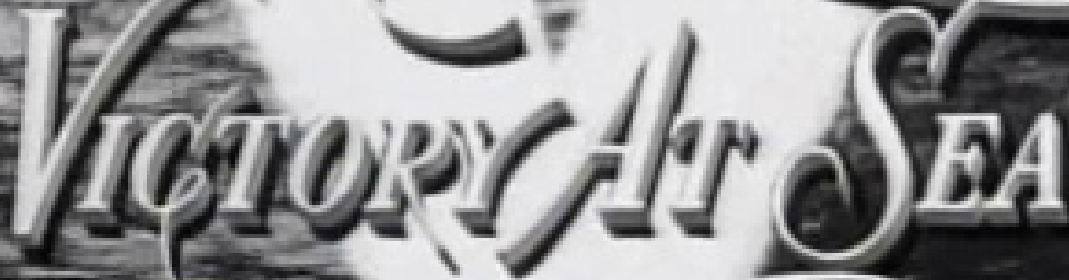
immediately signs his entire fortune over to his uncle's widow. She's very grateful to accept the money, but when he announces they are engaged, after what has obviously been a passionate affair, she turns icy and dismissive. From thence forward, the idyll is over. Did she seduce him to get the money? Or did she find his assumption insulting? Philip's uncle was Rachel's second husband. Did she also kill the first?

Whether or not her Rachel is saint or sinner, we see a new de Havilland in the film. Dressed in black as a widow for most of the action, her weeds are off the shoulder, chiffon confections, which make her look like a woman of the world. During the film the actress was divorced, and she was now a single mother of a young son, contributing certainly to a new sensual receptiveness in her performance.

CONTINUED ON PAGE 62



Olivia de Havilland, Audrey Dalton and Richard Burton in *My Cousin Rachel*



VICTORY AT SEA

A Paradox of Objectivity Immersed in Hard-Hitting Action

BY WAJIHA RAZA RIZVI

Victory at Sea, a cold war epic by Director M. Clay Adams, proved to be one of the most popular documentary series in the history of American television. Nevertheless, the series left its viewers immersed in a paradox of objective realism; as the television news coverage in the era of the Vietnam War reflects bias due to network television's monopoly of the sourcing of national and world news.

According to Frank Russo (1971), Elmo Roper & Associates polls in 1959, 1961, 1963, 1964, and 1967 confirm television's status as the primary, most believable source of news; Nielson ratings indicate that 35 million television sets were "tuned to evening news shows each night" (540).

NBC took the unique opportunity to beam major events of WWII directly into the comfort of living rooms via the new technology of television while the memories of war were still fresh in public minds. The living experiences of the true to life hard-hitting-action, desolation, destruction, and death were launched into people's houses like breaking news.

Victory at Sea used real WWII footage to fictionalize and fabricate war realities that muddle the confines of objective rendering. New technologies of the 1930s had made it possible for Navy camera crews in protagonist (Allies: United States, Union Soviet Socialist Republic, and Great Britain) and antagonist (Axis powers: Japan,

Italy, and Germany) teams to use portable cameras and quality film stock to film accounts of their operations across the globe. Peter C. Rollins (1972) argues that the Allied victory resulted in protagonist control over antagonist footage. Recounting a mixture of the actualities of naval operations of WWII from protagonist and antagonist points of view, *Victory at Sea* episodes offer idealistic interpretations of war realities.

These interpretations reduce objectivity to subjectivity by influencing social and psychological perceptions of war in human objects, a phenomenon which had special significance and role in the cold war era. The mediation of the real images

transforms the image into the real, causing a loss of ability to differentiate reality from fiction. *Victory at Sea* is an erroneous production, which reenacts the events of WWII outside their original temporal and spatial realities. Rollins says it compromises authenticity at the cost of human “drama that’s packed into history”: Japanese ships and bombers advancing on American ships and bombers or Kamikaze suicide attacks against Allied targets in the closing phase of the Pacific campaign. This powerful, ‘entertaining’ spectacle spliced with narrations of then popular celebrity Leonard Graves and the symphonies of Richard Rodgers obscures these perceptions through impact montages at a breathless pace. This technique, loaded with the official ideological spirit of war, is preserved from the first episode, *Victory at Sea: Design for War*, to the last episode, *Victory at Sea: Design for Peace*.

Montages follow repetitive patterns: Allied forces move from left to right and Axis powers from right to left. An impact is created through reinforcing images of ship, ship, ship, and gun, gun, gun in juxtaposition to enemy leitmotiv war, war, war like a constant threat. This action style editing creates high drama by knocking viewers with booming, repetitive, in and out imagery. An impact montage of big guns, parallel fifty caliber bullets, and bombers follows an impact montage of big ships creating a thriving impact of the war threat on minds and personalizing hatred of American enemies. The power of the impact is enhanced through the orchestration of the protagonist and antagonist leitmotifs and their variants that effectively perform at the level of the subconscious.

Episode 19, *Victory at Sea: The Battle for Leyte Gulf*, fictionalizes a close encounter between the Allied forces and the Japanese. In one of the extended scenes, the shadow of the

protagonist naval plane touches the sea surface, symbolizing the position of the navy as savior of maritime peace and freedom. Earlier, at the beginning of the documentary, after the V for victory sign emerges above the tides, we see several shots of ships in a row that follow several mid-shots of half naked naval officers and then close ups of several GIs. The impact of the American’s militarily invincible muscle is created. Later, a personalized order, “Strike! Repeat! Strike! Good Luck!” from the higher naval command is delivered in a close up, which follows a tight shot of a speaker, symbolizing communication of the command down the hierarchical chain. This scene follows a sequence of fast cutting long and close shots of loyal officers, flags, ships, and planes as the command and ideology rule. The light bombers of the protagonists fly from right to left, and of antagonists from left to right. The mid-shot (with a back focus) of an officer celebrating victory with a flying kiss at the blast of the enemy’s mariner, holds many planes of the protagonists in the background. The sequence repetitively orchestrates hype building imagery of sailors, flags,

machines, ships, planes, guns, and torpedoes to create a powerful impact montage in juxtaposition to rising tones of the leitmotifs of enemy-attack in the earlier part and victory in the later. The paradoxical montages of the victorious Allied advance build war icons, dictate war ideology to make viewers sympathize with larger than life political causes and bury human cost of victory under the generalizations of freedom.

Episode 20, *Victory at Sea: Return of the Allies, Liberation of the Philippines* builds on the binaries of friends/enemies, good/evil, Allied forces/Axis powers, Americans/Japanese, democracy/despotism to complicate comprehension of war realities. This film puts together spectacular montages of Kamikaze flaming planes crashing into the sea, devastating damage on Allied ships, fleeing citizens, a ruined flaming city, a church temporarily turned into a hospital, a soldier helping a little boy to quench his thirst with water, and again at the close of the war, Kamikaze planes crashing into buildings, and ships in the harbor, victorious Americans



Photograph by Mark Stevens / Flickr and calltheambulance / Flickr

turning the tide of war, and the flags in Manila, Bataan, and Corregador following Philippines liberation. The sequence juxtaposes high and low pitch symphonic motifs as needed to end on rising victorious notes as Graves repeats Roosevelt's words, "American soldiers fight not for the lust of conquest; they fight to win; they fight to liberate." The paradoxical montages repetitively emphasize, what Rollins (1972) calls, the American ideology of patriotism, cause, freedom and victory over human loss under the generalizations of democracy. Enemy motives for historical Kamikaze attacks are reduced under a larger cause of liberation of the Philippines. The building up of the enemy threat and misery is dramatically reversed into his own camp. Rollins says the protagonist dies for a noble cause and the antagonist for no cause. One reality is compromised over another.

The portrayal of un-distressed Allied soldiers indoctrinates viewers into mere observers who do not sympathize with dramatized public deaths of

the antagonists. The film follows a philosophy of dangerous moralism; Fred Friendly, a former president of CBS News said, "A country cannot commit to fight the war unless the country hated the enemy." This powerful series aims at building hatred of the enemy and raising talons to involve the American public in the drama of war. This pseudo-realistic series does not offer to viewers a "truly realistic mental picture" of war's past, present, and future (Rollins, 1992). The viewers learn about the righteous American character, and an American desire to help the weak; the Philippines is liberated from the threat of Japanese despotism. The series orchestrates sublime themes of American innocence, rhetoric of liberation, machines in action, innocent protagonists and mean antagonists. The viewers are emotionally absorbed in predestined judgment made by the producers of the oligopolistic broadcast industry, far from an insight into the complexities of war.

The *Victory at Sea* series is a typical

incidence of the mainstream media and government alliance in pursuit of their own focused interests during the cold war era. This alliance was also operating in Vietnam; where government and military officials were media informants and facilitators in the drama of Vietnam. In fact during the period of full-blown American commitment in Vietnam, the series itself was frequently broadcasted in several states to build the 'morale' of the viewing public. The series *Victory at Sea* originated the beginning of modern war genre within American documentary. Indeed the media clearly showed its passion for exploiting the opportunity to build a factory for the production of current affairs and documentaries for consumption in the market place following its debut.

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Japan's Ill-Fated Decision for War

BY DAVID MCCORMACK

The economic crisis of the Great Depression had a profound influence on Japanese strategic thinking in the 1930s. The collapse of world trade prompted the military into re-viving long held ideas concerning the creation of an empire in China. Japan lacked raw materials and had seen its population more than double since the abolition of the Shogunate in 1868. As a source of much-needed raw materials and a ready-made export market, China seemed to be the answer to Japan's economic problems.

As a precursor to war with China, the military, acting largely independently of the government, provoked a war in Manchuria. Army officers wanted to prove themselves more powerful than the Japanese cabinet, which in the event stood by impotently allowing the Army to realise its goals.

Meddling in politics by the Army was hardly a new phenomenon in Japan. During the reign of the Emperor Meiji, a decree had prohibited the military from taking part in party politics. However, the decree failed to deter young and ambitious officers from forming secret societies, which focused on issues of national reform and national security.

On 18th September 1931, the militarists struck when a firefight broke out following a bomb explosion on the Japanese owned Manchurian Railway. The following morning units of the Japanese Kwantung Army occupied Mukden, Changchun, and laid siege to the city of Kirin.

China appealed to the League of Nations for help. A League of Nations commission was set up to determine the causes of the Japanese invasion of Manchuria. Led by Lord Lytton,

the commission delivered its report in September 1932. Whist branding Japan as the aggressor, the report recognised the role of China's anti-Japanese propaganda in inflaming tensions. Notwithstanding provocations by the Chinese, the report called for a voluntary withdrawal from all areas occupied by force in Manchuria.

The Japanese Government reacted angrily to the Lytton Report, and in February 1933 withdrew from the League of Nations. Manchuria was annexed and became the Japanese territory of Manchukuo. In May 1934, the Army negotiated a truce, establishing a demilitarised zone south of Manchuria.

The perpetrators of the Manchurian Crisis were a group of officers belonging to the Cherry Blossom Society founded in early 1931. Their prime objective was to establish a military dictatorship in Japan.

Long before the Manchurian Crisis, secret societies such as the Left-Shoulder Clique and the Imperial Commander's Society flourished. These societies had the same militaristic ambitions, which characterised the Cherry Blossom Society. The rising tide of militarism in Japan led to political turmoil, culminating in the assassination of Prime Minister Inukai in 1933.

Inukai had founded the Constitutional National Party as a popular movement opposed to the autocratic government of army general Prince Katsura Taro. Inukai became prime minister in 1931, following the fall of the Wakatsuki Reijiro cabinet, which had failed to control the army. His premiership was characterised by his strong opposition to elements within the Army who wished to usurp the

political power of the cabinet. Inukai's assassination clearly marked the end of party political participation in Japanese home affairs. With the politicians rapidly losing control of events, the political vacuum created was quickly filled by the Army, whose main factions the Kodo - ha (Imperial Way) and the Tosei - ha (Control Faction) engaged in a power struggle to determine Japan's foreign policy.

In August 1935, Colonel Saburo Aizawa, a member of the Kodo - ha assassinated General Tetsuzan Nagata for allegedly bringing the Army into disrepute as a result of his dealings with the Zaibatsu corporations. Seven months later, a group of officers including Tukatsaga, Muranka, Asaichi, Isobe, Teruzo Ando and Yasuhide Kurihara gathered approximately 1400 troops around them and attempted a coup. The aim of the coup was to restore the authority of the Emperor by force. Government residences were attacked, resulting in the violent deaths of the Finance Minister and the Director of Military Education.

The coup however lacked the support of the High Command and after some initial doubts, the Emperor also made a stand against the coup leaders. In the subsequent purge, members of the Kodo - ha were compelled to vacate important posts. The Generals extracted a high price from the politicians for restoring order, making it clear that from now on they would veto any Government decision relating to national security. With the military effectively dictating policy, it was only a matter of time before hostilities in China would be resumed.

On 7 July 1937, a Japanese infantry detachment on a night exercise came



under fire whilst resting on the banks of the Yunting River near Peking. At the ancient Marco Polo Bridge, the bugle had just sounded the end of the exercise when incoming fire was detected coming from nearby Chinese positions. There was a brief skirmish as Japanese troops returned fire. A second Japanese company was rushed to the bridge, but by the time they arrived it was all over. A Japanese staff officer negotiated a truce. Both sides had only just agreed to break off hostilities over what had been a unfortunate mistake when a second volley crashed into the Japanese positions.

Whilst the first shots fired into the Japanese positions may have been accidental, the second were definitely suspicious as relations between the Japanese and Chinese troops had previously been good. The following morning Japanese troops withdrew under a local agreement and in doing so again came under fire. It was abundantly clear by now that a third party had an interest in keeping the skirmish alive. Nonetheless, the Japa-

nese and Chinese accused the other of breaking the truce. As a consequence, negotiations came to nothing and in Japan voices could be heard demanding swift retribution.

Prime Minister Prince Konoye felt compelled to acquiesce to the militarists' demands, lest his government fall. It made little difference to the militarists if the incident was started by Chinese troops or by Communist agitators. In their eyes, the prestige of the Empire of Japan had been damaged and as such they chose to react by launching a punitive expedition against the Chinese mainland.

Within eight weeks of General Katsuki's proclamation of a punitive expedition, the Japanese force in North China had increased to sixteen divisions. This reinforced army under the command of General Terauchi deployed southwards to engage Chinese forces defending Shanghai and Nanking. The Yangtze was heavily defended by elements of the German trained, Chinese Central Army, manning their

own version of the Hindenburg Line. The fortified area stretched from Kiyangyin to Hangchow. Japanese forces outflanked this impressive defensive line by carrying out an amphibious assault at Hangchow Bay. A further landing at Plover Point panicked the defenders into a hasty retreat, leaving the way open to Nanking.

The battle for Nanking was brief but bloody, and on 13 December forward elements of the Japanese Army entered the city. The following day saw the arrival of the main body of troops, and with it began the terrible episode known as the Rape of Nanking. For a month Japanese troops engaged in an officially sanctioned reign of terror. The death toll ran into many thousands, and as details of atrocities became known in the west, public opinion hardened against Japan.

Japan's international standing had been seriously damaged by events in China. A fierce debate broke out amongst the High Command with General Tada urging the suspension



The attack at Pearl Harbor in 1941.

of all offensive operations. He echoed General Ishiwara's warning that the war in China was too severe a drain on Japan's limited resources. However, despite General Tada's warnings the expansionists in the High Command prevailed. On 16 January 1938, Prime Minister Prince Konoe stated that the war would be prosecuted with renewed vigour.

In March the Japanese forces advanced south towards Hsuechow. On 7 April, spearheads attacking the town of Taierschwang were cut off and surrounded. The Japanese troops put up a desperate defence. A relief effort failed and all 8000 troops died to a man. This defeat though humiliating for the High Command was only a temporary setback. Hsuechow fell on 19th May and by October Hankow had been occupied. In February 1939 Hainan Island was overrun, Japanese troops pushed on to the border of French Indo China, cutting off the rail link with Hanoi.

The forces of Chinese Generalissimo Chiang-Kai-Shek retreated into the

vast hinterland of China, setting up camp at Chungking, some 900 miles from Hankow. Here they were practically invulnerable to all but aerial bombing. The war in China had entered a period of stalemate. Japanese losses had been high and the economy had been placed under a great strain. The Japanese leadership therefore decided to suspend offensive operations in favour of a period of consolidation.

On the mainland, steps were taken to establish a puppet regime, at the same time diplomatic pressure was directed at isolating Chiang-Kai-Shek from his supporters in the west. With the only real opposition in China supposedly neutralised, Japan's attention turned towards the Soviet Union.

Since the start of operations in China, Tokyo had been concerned about the possibility of Soviet intervention. There had been regular incidents along the Manchurian – Siberian frontier. In July 1938 a pitched battle took place when a mechanised Soviet force defeated the Japanese at Chun-

gkufeng. A ceasefire was negotiated and held out until May 1939 when a Japanese Cavalry Regiment was attacked at Mononhan. The Kwantung Army reacted swiftly and dispatched aircraft to carry out a reprisal raid deep inside Mongolia. What had at first appeared to be a minor border incident soon escalated into a major confrontation as both sides rushed reinforcements to the area. In this undeclared border war the Japanese came up against a formidable adversary in the form of General Zhukov. Japanese forces were outflanked and enveloped by Zhukov's fast moving armoured units.

The Soviets enjoyed overwhelming artillery and air support and an overall 2:1 advantage in numbers. The Japanese forces received such a comprehensive thrashing that they readily accepted an offer of a Soviet ceasefire. This comprehensive defeat made the High Command recognise that the Soviet colossus was not to be underestimated. The High Command became convinced that any further conflict with the Soviet Union would be disastrous for Japan. The Foreign Ministry subsequently began negotiations, which led to the signing of the Russo-Japanese Neutrality Agreement in April 1941.

The outbreak of the European war in September 1939 created serious problems for Japan as imports of Strategic materials dried up. The "moral embargo" imposed by the United States laid Japan open to punitive tariffs on imports and exports. Desperate situations require desperate remedies and as no solutions were available in China, Tokyo turned towards South East Asia. The abundant reserves of Oil, Nickel, tin, rubber, bauxite and rice made the region particularly attractive to Japanese strategists.

On 24 July 1941, Japanese troops occupied French Indo-China. Two days later, the United States responded by freezing all Japanese assets and credits. This action was quickly followed by a total oil embargo. The British and Dutch followed the American lead, forcing the Japanese leadership into a dilemma regarding their operations in China, which were proving to be a severe drain on the nation's limited resources.

The Imperial Japanese Navy wanted to avoid a direct clash with the United States as it would involve the deployment of significant naval and air assets. Meanwhile, the Army remained preoccupied with China, its leaders recognising that any accommodation with the United States would entail a humiliating withdrawal from the conquered areas on the Chinese mainland.

Attempts to reach a diplomatic solution with the United States never really got off the ground. The terms laid out by the U.S. Secretary of State Cordell Hull demanded nothing less than a total withdrawal from Manchuria, China and Indochina. Such demands were unacceptable to Tokyo and as the charade of diplomatic negotiations was played out, Japan prepared for war.

The more realistic members of the High Command knew that a total victory over the combined might of the United States and the British Empire was not possible. It was postulated that if Japan could gain time to secure a firm base in South East Asia and the Pacific, the western democracies would be unwilling to pay the price in blood to turn back the tide. A negotiated settlement could then be reached recognising Japanese Hegemony in the region. Admiral Isoroku Yamamoto was more realistic than most, he knew that once the material strength of the allies was fully mobilised, it would be overwhelming. He wrote that if war did come "I shall run wild for the first six months or a year, but I have no confidence for the second or third years". As Japan drifted ever closer to war, Yamamoto stood squarely behind the Emperor. He concluded that the best chance for success lay in a pre-emptive strike against the United States Pacific Fleet based at Pearl Harbour.

The Navy commenced exercises simulating an attack on Pearl Harbour in July 1941. The exercises proved so successful that the following month a Joint General Staff conference recommended that military preparations should be completed by the end of October. The Army fully supported this timetable, though they did express concern that preparations could not be fully completed without a firm

decision to go to war.

The Army and the Navy reached a compromise at the beginning of September. It was decided that preparations for war would proceed as to the previously agreed timetable. War preparedness would then be followed by a decision for war if no diplomatic solution was found by early October. The schedule for war, outlined in a document entitled 'Guidelines for implementing national policies', received the approval of the Emperor on 6 September. Having obtained royal sanction, military preparedness went ahead against the backdrop of a diplomatic charade.

The Inner Cabinet met on 12 October to discuss what, if any diplomatic avenues were left open. Foreign Minister, Soema Toyoda suggested a withdrawal from China 'in principle'. Such a compromise was anathema to Minister of War Hikedji Tojo. The Naval representative, Kojiro Oikawa agreed that a decision for war had to be taken one way or another, but that such a decision should be left to the Prime Minister. The Prime Minister in turn asserted that he could not be held responsible for the outcome if the Army continued to insist upon war. The meeting ended with no firm decisions having been made.

On 14 October, Tojo delivered a speech to the cabinet brimming with force and passion, in which he attempted to force a decision for war. Prime Minister Konoe remained resolute, not wishing to take the ultimate responsibility for starting the war. The Navy meanwhile would only pledge itself to support whatever decision was made. Tojo was unable to accept this impasse, stating that if the decision was not in favour of war, the 6 September guidelines would need to be revised. He went on to assert that since the cabinet had been responsible for the guidelines and had not adhered to them, they should resign.

Konoe saw the best hopes for peace being in the formation of a new cabinet. On 16 October the entire cabinet, including Konoe resigned. Any hopes that Konoe may have had were short lived, as that very day, Tojo received the royal mandate. With the rise of General Tojo, any influence the mod-

erates had was lost.

On 4 November, a meeting of the Supreme War Council reviewed the final operational plans. The projections were optimistic. The destruction of the U.S. Pacific Fleet, coupled with a German declaration of war offered the possibility of a short war. In this atmosphere of breezy optimism, the Council unanimously agreed to a decision for war. A deadline of 1 December was set for an end to diplomacy, with a proviso that hostilities would commence whatever the state of current negotiations. The decision for war received the sanction of the Imperial Conference on 25 November. The deadline was later extended to 8 December, the diplomats would thus be sacrificed in a bid to prolong talks for as long as possible.

The Kuruso Mission had arrived in Washington on 15 November. A smiling Kuroso told waiting reporters, "I am indeed glad to be here in your nation's capital. I extend greetings from the bottom of my heart". His smiles hid the grimmer truth that he was not authorised to offer anything more than a meaningless reshuffling of Japanese troop dispositions in China. On 20 November, Kuroso presented the Japanese proposal that America should cease aid to China and revive trade agreements with Japan. Six days later, Hull clearly stated President Roosevelt's demands that Japan give up its conquests in China and formally withdraw from its Axis partnerships.

Over the course of the next three weeks Kuroso continued in his impossible task of attempting to wrangle concessions whilst waiting for Tokyo's response to Roosevelt's demands. However, as he was fully aware, the intractable question of China effectively precluded any meaningful discussion. Having played for time with some degree of skill, Kuroso finally delivered Tokyo's long awaited response rejecting American demands at 13.45hrs on the afternoon of 7 December.

The Japanese fleet had put to sea long before the response of the U.S. Secretary of State to Kuroso's proposals was known. Any chance of a last minute solution was lost when the Tojo Government declared its unwilling-

ness to make any concessions regarding Japanese conquests. With talks in deadlock, the Imperial War Council in Tokyo gave orders for the attack to proceed.

The attack force was made up of the six carriers Akagi, Kaga, Hiryu, Soryu, Shokaku, and the Zuikaku. The escort consisted of nine Kagero class destroyers and two battle cruisers. A separate force of 27 long-range submarines made their way to Hawaiian waters by way of the Marshall Islands. The plan for attack was bold and did not wholly anticipate the element of tactical surprise.

Having avoided detection, the Japanese fleet reached its attack positions at 06.00hrs on Sunday 7 December. The first wave of 183 planes was launched soon after, followed by a second wave of 170 planes at 07.00hrs. At anchor in Pearl Harbour were 70 warships. The primary Japanese target, the U.S. aircraft carriers were all out

at sea that day. Despite this, in a little under two hours the U.S. Pacific Fleet was put out of action. The battleships Arizona and Oklahoma had been sunk and six other capital ships badly damaged. The attack was a stunning tactical victory and would buy time for Japan to "run wild". Yamamoto had gambled on a short war, only time would tell if his supreme gamble would pay off.

In explaining Japan's ill-fated decision for war in 1941, it is also important to consider if there was an alternative. The most obvious choice of course would have been a decision not to go to war. As an ally of Britain during the First World War, Japan had declared war on Germany. Despite having little interest in the European conflict, Japan profited by taking over German colonies in the Pacific and extending economic influence in China. Any possibility of profiting from the current war in Europe was however out of the question. As

long as Japanese troops remained in China, the economic blockade would continue. A withdrawal from China was unthinkable; consequently Japan faced the prospect of war or economic collapse. The resignation of the Konoe cabinet had offered some possibilities. However, the appointment of Tojo removed any remaining hope of an accommodation with the United States. For Tojo, war was inevitable; to delay would result in the United States extending its air power into the Pacific. Every passing day would see Japan becoming weaker; its oil reserves dwindling. To expedite matters, Tojo was able to resolve the Navy's demand for increased resources at the expense of the Army. The die was thus cast, having crossed the Rubicon, the nation united in what would be seen as a life or death struggle for survival.

David McCormack is a British based writer with an interest in modern military history.



Japanese Surrender on the USS Missouri, Sept 2, 1945.

Flying a bigger kite



By Michael Liam Kedzlie

The C-2 Boondoggle

Over the past 60 years Japan's national security needs were focused on maintaining a credible level of defence to secure its territorial sovereignty. In this role it has been in a long-term security partnership with the United States who have based military forces alongside the Japanese Self Defence Force in Japan. However, though the longstanding policy of territorial self defence will for the future be maintained, under the new defence normalisation policy of the Shinzo Abe led government, Japan's national security outlook will evolve even further. Japan now wishes to play its part as a "normal" defence contributor in a range of possible missions from humanitarian and disaster support missions as was seen during the 2013 Philippines mission, through to UNSC Chapter VII mandated combat missions. To be able to conduct these types of future taskings beyond Japan's current EEZ and force structure, the country will need to have strategic airlift and sealift capabilities. Japan has recently built amphibious support ships such as the Ohsumi Class, but in terms of developing a coherent strategic air transport capability Tokyo is lagging behind.

One of the cornerstones capabilities of any modern military is air transport. The ability of nations to quickly deploy by aircraft material and machinery overseas, backed up with sufficient numbers of personnel to assist in carrying out those vital missions. Whether that mission is a UN mandated combat taskforce, peacekeeping mission or more frequently in the post cold war era, a humanitarian and disaster relief mission, airlift capability is critical in achieving any operational success. With respect to the ability to respond to disasters, be that tsunamis, earthquakes, typhoons and other emergencies that frequently hit the Asia-Pacific region, the rapid deployment of a strategic airlift asset can simply make the difference between life and death.

In the past tactical transport aircraft such as the locally built Kawasaki C-1 and the venerable C-130 Hercules were suitable for Japan's domestically orientated needs as its military area of interest remained solely within the territorial archipelago. However, with the new Abe policy direction Japan is now requiring an improved airlift capability. This is the same issue that other Pacific rim nations such

as Australia and Canada have found since the end of the Cold War and especially since the events of 9/11 when they have found that their ageing and relatively small C-130 transports were not meeting the modern strategic airlift requirements. Both Australia and Canada have purchased the large, but highly capable Boeing C-17A Globemaster III. New Zealand is also finding itself greatly limited by its current airlift fleet and is also currently weighing up purchasing a small fleet of larger and more capable transport aircraft.

In the late 1990's the Japanese Air Self Defence Force (JASDF) began to investigate the replacement of its tactical air transport fleet and by 2001 they had the government support to locally design and build a new replacement aircraft. At the time a requirement for a strategic air transport capability was not a policy being pursued with any vigor by Tokyo defence planners. In 2007 emerged the Kawasaki C-2 design, a larger tactical transport aircraft than the legacy Lockheed C-130 and Kawasaki C-1 aircraft it was to replace. However, the design specifications were directed at providing a domestic orientated tactical capability and

not one in which would normally support a longer-range strategic level of airlift tasking. Essentially the C-2 design, though introducing new 21st century construction technologies, was an aircraft that was generally only capable of a modest improvement on the class leading Lockheed C-130-30J tactical transport. Kawasaki Industries then constructed two prototypes and these began their test flights at Gifu prefecture in March of 2010. Since the fanfare of the early test flights the public has not seen or heard much about these aircraft other than it is currently under low-rate initial production. Five years ago it was expected that the first operational C-2 squadron was going to be deployed to Miho airbase in Tottori Prefecture by January 2015. Since the early test flights the C-2 project has been postponed three times with the latest incident last year being a rear cargo door failure caused by pressurization issues. This has delayed the introduction of the aircraft into JASDF service for a further two years. The eventual introduction into service date is still unknown.

The C-2 project seems to have some serious problems. Furthermore, its mooted build cost of \$80 million back in 2007 has allegedly ballooned out of proportion and is currently unknown publicly. Some reports in local Japanese media and online media make the plausible claim that the C-2's eventual cost will be as much as the far larger and more capable American built Boeing C-17, which has a current flyway cost of around \$220 million. Because the C-2 was originally destined for a domestic Japanese customer, the JASDF, it was not designed from the outset with a view to attracting exports sales in mind. This is another looming issue, as the aircraft will need strict US or EU airworthiness certification to attract potential international military buyers. Following the lifting of policy controls on the export

Japanese military equipment by the Shinzo Abe administration, aircraft such as the C-2 can now be sold on the international defence market, but the costly task of retrospectively gaining this necessary airworthiness certification is an expensive hurdle that drives up the true procurement cost of the aircraft to a point where it may be very uncompetitive. This is due to the considerable amount of unique components that have been integrated into the design that will need further testing.

The Kawasaki C-2 as a competitive aircraft in the tactical airlift market is up against strong and established competition. Lockheed still build their improved version of the sixty year old Hercules design the C-130J-30 and the European aviation giant Airbus have introduced their new A400M, which of similar size and likely cost is able to achieve a number of capability requirements that modern military customers seek. Lockheed will introduce a larger Next Generation version of the C-130J-30 later this decade and are already planning the types eventual replacement later next decade. The new and now operational A400M is also a formidable export competitor in which the C-2 will have to compete against. Malaysia has four of these aircraft on order and Airbus Group, are actively looking for more sales in the Asia-Pacific region. The A400M has rough airfield capability, can also act as a supporting tanker aircraft with its mid-flight refueling capability, possesses a longer flight range, has lower operating costs for its size, and has a more flexible load and cargo carrying capability than the C-2. Unlike the Japanese aviation industry, Airbus also have an established global support network to assist customers, which if the C-2 were to find export buyers would be a further hurdle to contractually cope with as 30 year support contracts are now industry standard. Established Brazilian aircraft manufacturer

Embraer is this month beginning test flights of its own tactical military transport aircraft the C-390. Though slightly smaller than the C-2 it is still an advanced design produced by the worlds third largest commercial aviation manufacturer. Embraer also has experience in supplying and supporting defence customers including the Royal Air Force, a track record that gives confidence to other potential buyers.

Modern militaries are not funded by spendthrift governments. They do not take punts. The issue of customers having long-term confidence in any manufacturer being able to carry out the long-term defence support contract might be the biggest barrier for the nascent Japanese aircraft even if its ongoing issues are solved. The C-2 is a highly sophisticated, technologically complex new aircraft and it is wishful thinking that its introduction into foreign air forces will go smoothly. Support contracts for modern defence forces are regarded 'turnkey packages' involving, spares, training, documentation and software support including the transfer of source codes for the whole of the platforms operational life. Which in the case of large airlifters like the C-2 is between 25-30 years. Often the cost of the whole of life support contract is greater than the cost of the initial acquisition. Failures of contractual obligations at this level are not merely commercial contractual breakdowns, but serious political breakdowns at the government to government level. It is a realm of high stakes and high costs with huge political fallout if development and support issues go pear shaped. The software integration issues of the Australian Kaman SH-2G naval helicopter purchase is a billion dollar case in point of how readily and quickly defence contracts can end up being a fiscal boondoggle. Moreover, in a move that is seen as either desperately covering it's bets or facing the market reality of heavy

competition within the international defence marketplace, the C-2 has also been touted as a possible civilian air cargo aircraft with its proposed YXC variant. Again it will be up against strong competition in a commercial market that is dominated by tight cost controls that are currently giving former eastern bloc aviation companies such as Antonov the market edge. It is a market in which Embraer wish to be involved in as well.

If there is still a white elephant in the room it is that the C-2 is the wrong aircraft, at the wrong time, being built under the wrong policy considerations. The aircraft that Japan needs to meet its new outward looking, regional partnership orientated defence posture, requires a larger strategic airlift capability as provided by aircraft such as the Boeing C-17. Even the similar sized Airbus A400M in the least would make better sense in that it is versatile enough to airlift heavy tactical loads strategic distances. However, for some reason Japan has

not been able to pull the plug on the C-2. Vested interests? National pride? Maintaining an industrial aircraft base? That there are jobs to nurture and protect within the local aviation industry is understandable, but ones domestic industrial policy however ambitious, should never compromise a nations defence capability. The C-2 project is frankly a boondoggled attempt to reinvent the wheel especially when viable and more proven solutions have been available. So what should the JASDF do? If the C-2 is cancelled that would mean job losses, hopes dashed and a move back to square one. Jobs are important, but more important than expensively propping up what is effectively an underwhelming vanity project? In my view no! Nevertheless, those local aviation industry jobs can be saved - by building another aircraft. Someone else's proven and thoroughly tested design.

So what to do? It is all very well one being critical of the C-2 program, but

criticism should also offer a solution. In my opinion what the JASDF should actually do and using the kite flying analogy to suggest new ideas is simple. Fly a bigger kite. Fly a larger more suitable aircraft. The solution emerges from what is being done with Japan's recent F-35 Joint Strike Fighter acquisition from the US whereby local aviation manufacturers will build under license this advanced strike aircraft. Therefore, the Abe administration should promptly cancel the C-2 before it gets any further money thrown at it and engage a proven international manufacturer of tactical and strategic airlifters to build aircraft locally under license. Preferably at the Kawasaki plant to offset the employment loss of the C-2 project.

This would mean that Japan will then get a proven, world-class airlifter that can undertake the sort of strategic tasking tempo's that are required when operating throughout the Asia-Pacific, as well as meet much of its



tactical or domestic needs. Japan could look at also building under license a smaller tactical airlifter like the proven and popular Airbus Groups C-295M or Lockheed C-27J to round out its air transport fleet giving the JSDF a greater and more cohesive spectrum of airlift solutions, which solely relying on the C-2 will not address. What the JASDF should not do is waste taxpayers time and money on overly ambitious defence 'show pony' projects where there is no economic viability, strategic merit, institutional depth, nor competitive advantage. All it does is divert scarce capital investment away from realistic projects with proven operational performance where there is an identifiable gap in the export market. Platforms such as the small yet well-regarded Kawasaki OH-1 light combat helicopter, the Komatsu LAV light armoured vehicle or indeed Japan's first rate submarine technology would have made for a better starting point to internationally showcase Japan's defence sector capabilities.

The other nations whom the Japanese Self Defences Forces are likely to train and work alongside with in the future decades are consolidating around air transport platforms that are logistically interoperable with each other. These logistical synergies in coalition operations are an essential part of ideal modern operational doctrine. The United States and Australia have formal security alliances with Japan as well as together, therefore it would make sense for at least Japan have operational synergy with those two nations use as it moves into its regional defence partner outlook. Other countries within the wider Asia-Pacific rim such as Singapore, India, Canada and New Zealand, are also working more and more on integrated capabilities and operational doctrines that are US/NATO based. It is within that context Japan as an informal member of the US lead global liberal democratic 'Allies' nexus needs to further integrate and enhance with and not attempt project duplication. For example the Long Beach production

line of the C-17 Globemaster III is due to close later this year when the last of the ten speculative whitetails are built and offered for sale. Though at least two of these final white tail versions are heading to Australia, another to Canada and possibly a further 2 or 3 to New Zealand, it leaves possibly 4 or 5 final whitetails that could be potentially snapped up by Japan. These aircraft transferred to the Japanese Air Self Defence Force would be part of the transition across to locally licensed C-17 production and would keep the Kawasaki aviation workers very busy well into the future. Of course Japan would have the true strategic airlift capability its needs to meet its new defence policy outlook and its logistical support chain would be synergetic with allies it would work alongside.

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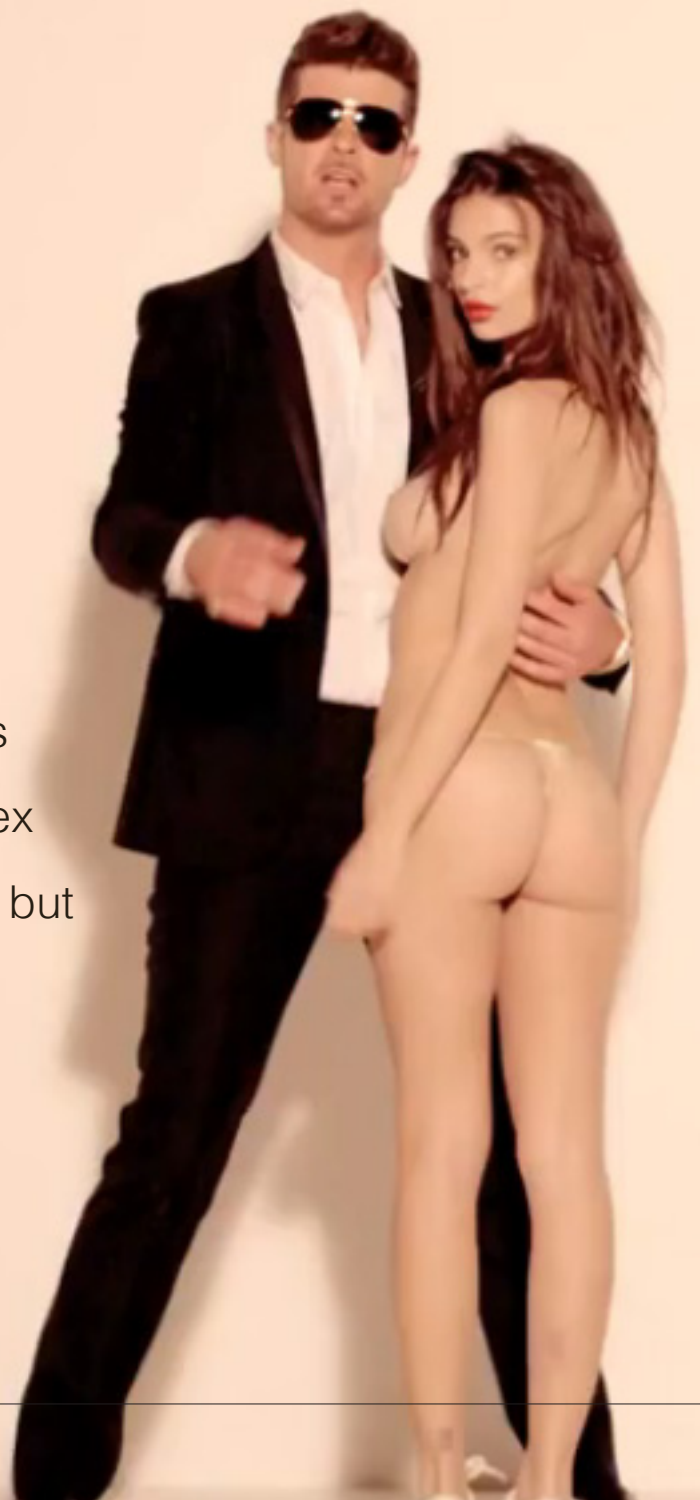


Rape Culture in Music

Lyrics that Provide a Step-by-Step Guide to Sexual Assault

BY ANTONELLA REGUEIRO FERNANDEZ

“Robin Thicke’s rape anthem is about male desire and male dominance over a woman’s personal sexual agency...she’s relegated to the role of living sex doll whose existence is naught but for the pleasure of a man”.



Editor's Disclosure: This article contains sexually violent language and imagery that may be upsetting to some readers.

The Music and the Misogyny

Misogyny is not a new development in our world. Society has become immune to the objectification, sexualization, and violence that surround women. Whether it is product advertisements or music videos, the issue of violence against women permeates our culture. Rooted in that premise are more serious issues such as the spread of and acclimatization to rape culture. In this culture, rape infiltrates many aspects of society and consequently allows for its continuity by reflecting acceptability to the act of rape. It is here where the unthinkable happens, as victims find themselves being blamed for their attacks, underrepresented in the legal sphere, and constantly reminded of their misery via mainstream media. The pervasive nature of such culture has lasting effects on the communities we inhabit. This research seeks to impress upon the readers the gravity of the situation through a lyric-by-lyric analysis of some of the most prominent songs which have perpetuated, and more importantly glamorized, glorified and validated a culture of rape.

The extolment and acceptance of rape lyrics is an extension of the acceptance of such an event in our societies, as music and media are usually a reflection of the community they arise from. "In a rape culture, people are surrounded with images, language, laws, and other everyday phenomena that validate and perpetuate, rape" (FORCE, n.d.). Music is one of the realms in which this validation takes form. The producers of this music not only feed from, but also feed into, the repetition and propagation of sexual assault. Rape music is not new in our society, yet it has permeated the industry to the point of

becoming more than a happenstance in a single musical genre. Rape has transcended musical styles, languages and cultural barriers, to become an all-encompassing issue without regards to sociocultural delineations.

The spider as the stalker

Rape is a persistent malady in our nation as shown by the numbers found on the website for the Rape, Abuse & Incest National Network (RAINN), which states that "there is an average of 237,868 victims (age 12 or older) of rape and sexual assault each year" in the United States ("How Often," n.d., par.1). Songs that perpetuate the idea not only of rape, but of a right to rape, may very well play a part in the sustenance of such high number of victims. I begin this analysis with the overt examples of rape-related violence in music, to address the acceptance of aggression against women in popular culture. The artists in this section were chosen due to the heinousness of their lyrics, and their unabashed use of rape as a selling point for their music. Instances of rape in music cross cultural and language boundaries, and involve a demographic which spans from rap, to metal, to ska punk. Regardless of the type of music, the message seems to be the same. It is a message that enables male entitlement over the female body and their ability to make their own choices.

The first example comes from one of the most controversial rappers of all time: Eminem. According to the artist's IMBD profile, Eminem's album, "Slim Shady EP," went to triple platinum. His 2002 release of "Marshall Matters LP," sold over one million copies during its first week alone. His career has been awarded with MTV Music Awards, Grammy Awards, and even an Academy Award for his "8 Mile" soundtrack. This immense success speaks to his popularity and thus, his potential

influence on society. Originally born under the name of Marshall Bruce Matters, this young artist from Detroit grew into one of the most violent lyricists in the music industry. He has, undoubtedly, the most graphic account of rape in this research, in his song "Stay Wide Awake."

The song begins with the author identifying a "young girl", a minor, sitting in a park, seemingly vulnerable to his advances. He approaches the girl with the intention of causing physical and emotional harm. He befriends his intended victim, and then proceeds to exact such a violent attack that even I am uncomfortable describing it. From the start, the song is an assault on the humanity of any woman, as he does not hesitate to refer to the young girl in his song as a "whore." The aggression escalates as the lyricist uses inanimate objects as aides in the violation of his victim.

*Sit down beside her like a spider, hi there
girl, you mighta
Heard of me before, see whore, you're the
kind of girl that I'd assault
And rape then figure why not try not to
make your pussy wider?
Fuck you with an umbrella, then open it
up while the shit's inside ya*

Not only is the degradation of the girl accomplished by name-calling, it is also exuberated by the use of an umbrella to worsen the damage inflicted on her. The girl becomes nothing but an object to be "played" with at the discretion of her rapist. By the end of the song, the listener has been described a total of two rapes and one murder – all of females. In the second instance of rape, the singer insinuates that the woman is to blame for the attack because she is naked in her own house "but I [the singer] can see she wants me." The woman is left without a choice due to the man's perception of her desires.

Throughout the song, the author

refers to himself as spider and a stalker who hides in the darkness and preys on his victims. In one of the instances, he even hides in the woman's basement and waits until she gets into the shower before attacking. Afterward, the violence is freely issued upon his victims. Throughout the song, the author perceives himself as an artist producing the same level of work as Mozart, glamorizing his acts by comparing them with classic masterpieces.

Eminem's "Stay Wide Awake" lyrics propagate the phenomenon of rape. The fact that his albums continue to sell millions validates the support for his music from the population. It is the buyers, after all, who make this "art" permissible. In supporting an album with a song in which women get violated, both physically and emotionally, the population is legitimizing the permissibility of rape in music. Rape, then, becomes something to bob our heads to and pump our fists in the air for, instead of being something we fight against.

The argument could be made in an attempted defense of artists like Eminem, stating that their music is made to satisfy the phenomenon of rape fantasy; that in no way are the lyrics inciting actual instances of rape. However, the difference should be clear. Rape fantasy involves partners in consensual interactions. The women participating in rape fantasy have willingly given their partners the power to re-enact an instance of rape. The men, on their part, have been allowed to wield such power but only to the extent to which the women feel comfortable – there are safe words, and the word "no" retains its meaning. Rape fantasy caters to the "dark" side of many of us, but those many are aware of their actions and are consenting to the event. The lyrics in these songs reach an incredibly wider audience, as the numbers show, and the message behind the verses is spread to children

and adults alike, some of whom may not be mature enough to deal with the severity of the content. Therefore, rape lyrics do not have defined boundaries of influence. Rape fantasy is not rape because the women are consenting, and their consent is not to rape, but to the illusion of it. Rape lyrics promote rape, not consensual sex.

Cocktails and contempt

The instances of explicit rape in music are endless. However, this essay seeks to go beyond the unambiguous and into the realm of the concealed. There are songs that are not as evident in their disdain for women, as they do not directly address the issue of rape, but rather insinuate the act in between rhythmic beats.

I begin this section with a controversial song which, to my knowledge, is the only song that has actually inspired repercussions against the singers. "U.O.E.N.O" by Rocko, featuring Rick Ross, produced a backlash of such magnitude that the latter artist found himself dropped from some of his endorsement contracts and apologizing publicly via his official social network sites. The verse chosen has no direct mention of rape in it, yet the insinuation of the act is unmistakable:

*Put Moly all in her champagne, she ain't even know it
I took her home and enjoyed that, she ain't even know it*

A "Moly" is a synthetic drug that has made its way into the pockets and tongues of thousands of drug users in the United States. It is part of the fastest growing drug problem in America, the synthetic drug market, and it has been found in nearly every state (Griffin, Black & DiCarlo, 2013). It is a popular way to alter the mind of willing users and of unsuspecting victims alike.

The lyrics to this song objectify the female victim, who has been drugged by the lyricist, as something to be enjoyed without consent; after all, the perpetrator takes her home and enjoys *that*. The use of "that" in the verse not only illustrates the objectification and dehumanization of his victim, but also the contempt for "it". The victim becomes a thing that does not even deserve to be named. However, there is more to this song than meets the eye, as rape is not only being committed but also glamorized. The artist did not put the drug into a Coca-Cola, or a beer, or boxed wine; he is dropping the drug into champagne. Champagne, by custom, is a high-quality and high-priced drink that is mostly drunk during special occasions. It is a drink which, in popular culture, has usually implied a high-class environment. Rape is, therefore, occurring not in the streets of the ghetto or the back alleyways of our cities, but in a world filled with money. The message is that rape occurs everywhere because it is all-encompassing; no one can escape it, regardless of the means at our disposal for protection.

Rick Ross was dropped from his Reebok® endorsement deal and was motivated to write an apology to his audience. In his apology, Ross stated: "To the young men who listen to my music, please know that using a substance to rob a woman of her right to make a choice is not only a crime, it's wrong and I do not encourage it". This apology begs the question of why the song was written in the first place. The lyrics to a song are not done overnight, they are listened to by the artists and their producers before they are released. Rick Ross was very much aware of the message he was spreading and his apology is an insincere consequence of the repercussions he was made to "suffer."

These are not blurred lines

These subliminal messages of rape



have crossed genre lines and found themselves embedded in top-chart pop songs, the latest of these being the catchy, yet eerily sexist, song titled “Blurred Lines” by Robin Thicke, featuring Pharrell and T.I. This song played repeatedly for most of 2013. According to the Mobile Marketing Magazine’s website, “Blurred Lines” became the song most searched for via the mobile application, Shazam, with approximately 17.8 million tags worldwide. According to the New Musical Express’s website, this single became the highest grossing single of 2013, with 1.44 million copies sold. These numbers serve to illustrate the impact of these lyrics, as the song was not downloaded by a few individuals, but by millions. The ability for music to be downloaded via the internet, recognized via phone applications, and distributed by the click of a button, makes the content of the songs a matter of importance.

The lyrics to “Blurred Lines” have been criticized by different outlets of social media for their message of

rape. It is so subtle, in fact, that many may not even recognize the content even though they have heard the song repeatedly.

*I hate these blurred lines
I know you want it (x3)
But you’re a good girl
The way you grab me
Must wanna get nasty*

The most prominent message found in the song is that of the existence of blurred lines of consent and a sense of male entitlement. It is obvious for the singer that because a woman has approached him, she must want it; therefore, he has a right to claim her. The singer knows that the woman would otherwise not engage in any sexual activities with him, because she is “a good girl.” The implications for both men and women in this song are alarming, because women are perceived as having initiated the sequence of events by approaching the singer in a way he found provoking. Men, on the other hand, are being instructed to take any movement from

the women they deem provocative as a sign of approval and consent. This outlook feeds into the already existing paradigm of victim-blaming prevalent in our society. Examples of this mindset can be found across the nation and at all levels of society. News reports in December, 2013 revealed that a high school student in Texas had been kicked out of her school for reporting rape and accused of lewd behavior; consequently, she was sent to a school for children with behavioral issues along with her rapist, whom she was forced to see every day (Pesta, 2013). This blatant disregard for the victims of sexual abuse is so ingrained in our society that some music artists have thought it appropriate to continue its proliferation.

Sezin Koehler (2013) recognized this issue and proceeded to compare the lyrics of “Blurred Lines” to the images provided by *Project Unbreakable*, a non-profit organization that works to help survivors of sexual assault cope with their trauma through art. In the images, victims of sexual assault stand

with posters in hand, containing the words said to them by their rapists during the act. The words found on the poster are disconcertingly familiar: “You know you want it,” “Good girl.” The side by side comparison pierces through the audiences’ ignorance of the similarities between these two seemingly disconnected entities, and produces a simultaneous reaction of both awe and shame. For the audience, it would be hard to believe that the song they have been dancing to for over a year is loaded with the same words which have been told to countless victims by perpetrators of rape.

Koehler concludes that “ultimately, Robin Thicke’s rape anthem is about male desire and male dominance over a woman’s personal sexual agency... she’s relegated to the role of living sex doll whose existence is naught but for the pleasure of a man”. It is the role of women to be complacent to the wants and needs of their male counterparts,

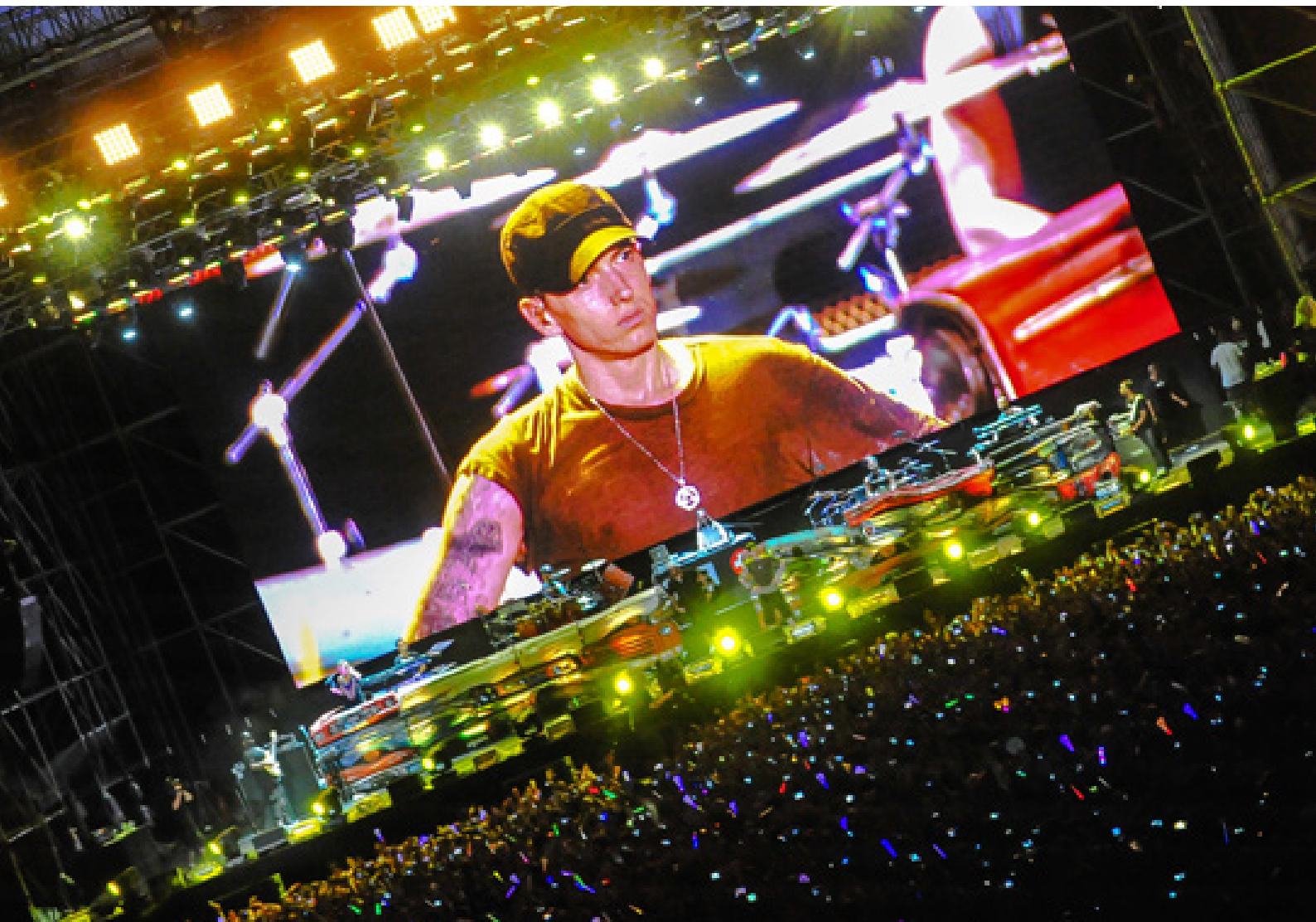
while at the same time being the subject of blame for their behavior. The women’s behavior is conversely observed and judged relative to the personality of the male character involved. This flexibility in perspective allows for a million possibilities in which everything, from a sensual dance to the grazing of a hand, can be perceived as a blatant invitation for sexual advances.

Another song within the realm of what is known as “pop” that satisfies the conditions to be included in this research is Jamie Foxx’s, featuring T-Pain, “Blame It (On the Alcohol).” The single was released on December, 2008 and managed to reach both Gold and Platinum levels by May, 2009. At first, the song seems to be blaming alcohol for the endeavours of the party goers. However, a closer look reveals that what is being blamed on the alcohol is much more sinister.

She put her body on me

*And she keep staring me right in my eyes
No telling what I’m gonna do
Baby I would rather show you
What you been missing in your life when
I get inside*

The song does not seem to be inciting or suggesting rape yet, but slowly it has begun to resemble Thicke’s assumption of entitlement as a consequence of the woman’s actions. She is now drunk, and because she has approached the singer in a way he finds provocative, he now does not know what he will do. He just wants to get “inside,” leaving us to question where exactly that is – inside her life, or inside her? The singer continues as he believes that with just a “couple more shots,” the woman will “open up like a book” that he will then proceed to read. The song follows with “Shawty got drunk thought it all was a dream/ So I made her say ‘Ah, ah, ah.’” Therein lies the admission that the woman did not even know what was happening when the man took advantage of her.



In the images, victims of sexual assault stand with posters in hand, containing the words said to them by their rapists during the act. The words found on the poster are disconcertingly familiar: “You know you want it,” “Good girl.” ... For the audience, it would be hard to believe that the song they have been dancing to for over a year is loaded with the same words which have been told to countless victims by perpetrators of rape.

Her levels of intoxication were so high that she thought she was dreaming. Much like Rick Ross, Jamie Foxx took the woman home and enjoyed *that* while she thought she was asleep – she did not even know it. The pattern of intoxication and abuse seems irrepressible.

Besides having crossed the lines of musical genres, the issue of rape culture in music has also broken the barriers of language, allowing for the Anglo-speaking community to share the spotlight with the Spanish-speaking constituency. Bachata sensation, Romeo Santos, came into the business as a Spanish-speaking singer for the musical group *Aventura*, which has sold over 4 million copies in the US. Their success as a group gave Santos a stable ground upon which to launch his solo career. His second solo album, *Formula Volume 2*, is the focus of this research, as it contains the song “Propuesta Indecente.” The lyrics below are in their original language with the translation provided adjacently by the author:

Si te invito una copa y me acerco a tu boca/Si te robo un besito, a ver, te enojas conmigo?/Que dirías si esta noche te seduzco en mi coche/Que se empañen los vidrios si la regla es que goces/Si te falto al respeto y luego culpo al alcohol/Si levanto tu falda, me darías el derecho/A medir tu sensatez, poner en juego tu cuerpo.

If I buy you a drink and get close to your

body/If I steal a kiss, would you get mad at me? What would you say if tonight I seduce you in my car/Let the windows get foggy and the idea is that you enjoy it/If I disrespect you and then blame the alcohol/If I hike-up your skirt would you give me the right/To measure your sensitivity, put your body at play.

The content of the song is a direct assault on the female character, masked under the guise of an irresistible proposal. Santos tells the woman that he will disrespect her, whether she is okay with it or not, and will then blame the act on the consumption of alcohol. Further context might help to understand that this is an act of dominance. The second line of the song is “Te adelanto no me importa quien sea el” (In advance I’m letting you know I do not care who he is). The woman in this song has willingly chosen the company of another partner, and the singer refuses to accept this by imposing himself on her decision. He insists on dominating the situation, even if it means disregarding her freedom to choose her own partner, and he will turn to alcohol as his aide if he must. Lines such as the subsequent “Este martini calmara tu timidez” (This martini will calm your shyness), are testament to the reoccurrence of a pattern of intoxication and entitlement.

This move is surprisingly similar to Rick Ross’ and Jamie Foxx’s, as all three singers seem to believe that intoxicating women is a precondition

for taking advantage of them. Whether it is via illicit drugs or through alcohol, these songs seem to give the audiences a step-by-step guide to commit sexual assault. Santos proceeds to ask if it would be okay with the woman if he hikes up her skirt. This behavior allows us to wonder whether or not he will stop if she declines, or if he will continue regardless of her levels of inebriation. There may not be a direct mention of rape in Santos’ ballad, but there is irrefutable proof of a sense of entitlement from the part of the male character – an entitlement which may manifest as sexual assertion.

The Hammurabi Code

The last song chosen for this research is Sublime’s “Date Rape”, because it addresses sexual assault in a different way. The track is found in the album, *40oz to Freedom*. According to the Recording Industry Association of America, the album has made the Multi-Platinum award category twice; a feature that is only accomplished by selling over two million copies. The song starts with a woman being drugged and raped at a party, and continues with the rapist being caught and prosecuted. If the song would have ended there, the band would not be a part of this research. In fact, it would have been a breath of fresh air to see the subject treated with the respect it deserves. However, the song continues by following the life of the convicted rapist after being imprisoned. During

jail time, the man is raped by other convicts and, although heard by the guards, his sexual assault is not prevented or acknowledged by them. This instance of rape is provided as punishment for the assailant's own actions; denoting an acceptance to sexual violence that should not be the norm.

The Hammurabi Code instituted the preconditions for a system in which violations of the law were punished by equal actions; an eye for an eye was the way of the law. The idea that a rapist should be allowed to be raped is as primitive as the act of rape itself. Promoting instances of rape as fair retribution feeds into the idea that the act of rape is a part of human nature, and that there is nothing we can do to stop it. Recently, an Indian woman was sentenced by her village court to undergo gang rape as punishment for having a boyfriend from another tribe (Smith, 2014). Although the official judicial system of India does not condone this behavior, the fact that it was an option to the village kangaroo court speaks to the ability for societies to see rape as an inescapable part of life, and more than that, as an adequate mode of punishment. This

to the kangaroo courts in India who saw rape as viable and excusable retribution. This should not be the case in any society in the 21st century. *The Hammurabi Code* was overthrown by a rich history of advancements in law and order systems that advocate for the idea that "prevailing social patterns can only be transformed through a change in social relationships, structures, and ideologies" (Vogelman, 1990). Rape should not be a glorified subject in the lyrics of songs, nor should it be advocated as suitable admonition for rapists. Furthermore, as rape in prison is a deeply embedded issue in our society, it should not be trivialized in song, much less capitalized from.

We are all complicit

The lyrics in this research have direct applicability, consequently making their implementation plausible. The songs do much more than promote rape as a type of entertainment; they provide the guidelines to seemingly successful ways of performing sexual assault. First, the men must ensure that the women are vulnerable enough for the action – whether by stalking them when they are alone or by providing intoxicants that

acceptance and multi-million dollar sales. Through it all, men should not forget their entitlement to choose for women, instead of allowing them to choose for themselves; forgetting that women becoming intoxicated by willingly drinking alcohol, does not, under any circumstance, give men the right to abuse their power.

Lloyd Vogelmann (1990), in his article titled "The Sexual Face of Violence: Rapists on Rape," concludes that "rape emerges from a culture that involves the domination and objectification of women" and that "as an act of sexual violence, rape reflects the masculine role as dominant and controlling." These ideas of objectification and male domination are already found in society at large, but they have become almost permanent by their proliferation through violent lyrics. As seen in the verses provided, overt violence is no longer the seminal problem. The fact that rape culture has been so ingrained into the music business that lyrics no longer need to state explicit instances of rape, but rather simply imply it as subtext, should be an alarming observation to all. Violence is masked by tunes that are appealing to the public,

It is within this type of culture that rape victims are blamed for their assaults, women are shamed for their choices of clothing, and perpetrators are forgiven their violence.

view of rape as punishment can be extended to explain the argument given in today's society, stating that women deserve to be raped because of what they have chosen to wear – they asked for it; therefore, they must deal with the consequences.

The fact that the guards in the song turned away from a man being raped simply because they believed it to be the appropriate punishment, place the lyrics of the song on equal footing

will alter their condition. Second, the men must interpret women's behavior as acquiescence to their sexual advancements by focusing on the way women may grab them. Third, men are to righteously enjoy women without their consent while at the same time forgetting that they are women at all by naming them such names as "that" and "it". And lastly, men are to sing about it so that they may validate and glamorize their actions with considerable public

consequently managing to influence as many people as possible. We are all complicit if we do not recognize the situation and battle against it.

The fight back

The prevalence of sexual assault in music complements a holistic culture of sexual violence. The fact that audiences have not rejected the phenomenon and continue to support even the most overt instances of

rape makes them accomplices to the sentencing of women as deserving of such treatment. Much like the Indian kangaroo court, supporters of this music are allowing the defilement of women, and in fact validating it, by refusing to oppose lyrics that contain

becomes a dangerous weapon.

Artists such as Eminem, Romeo Santos, Jamie Foxx, and Robin Thicke may all argue against this interpretation of their work; yet the lyrics speak for themselves, and

perpetrators to restrain their urges. It is also intricately bound to the worldview of a society that allows for the crime of rape to go unpunished, and for victims to be humiliated into silence. Pop culture, especially music, plays an increasingly important role



such a call to action. Thousands of people listen to these songs on a daily basis, as proven by a success which can be easily measured in the number of sales for each record. Women have become so accustomed to the existence of rape in their environment that they do not even attempt to recognize it when it is playing on their radios. Instead, some women have resigned themselves to live constantly under the fear of possible assault and the repercussions of reporting it.

Sexual assault can be suffered in varying degrees, but regardless of the severity of the attack, the scars are equally damaging to those who suffer them. The current culture of rape in society does not aid the resolution of this problem, and “in contemporary popular culture, representations of rape and sexual violence seem rampant, recurring in rap lyrics, visual arts, and cinematic texts” (Smith, 2004, p.150). By providing a guide to rape, music

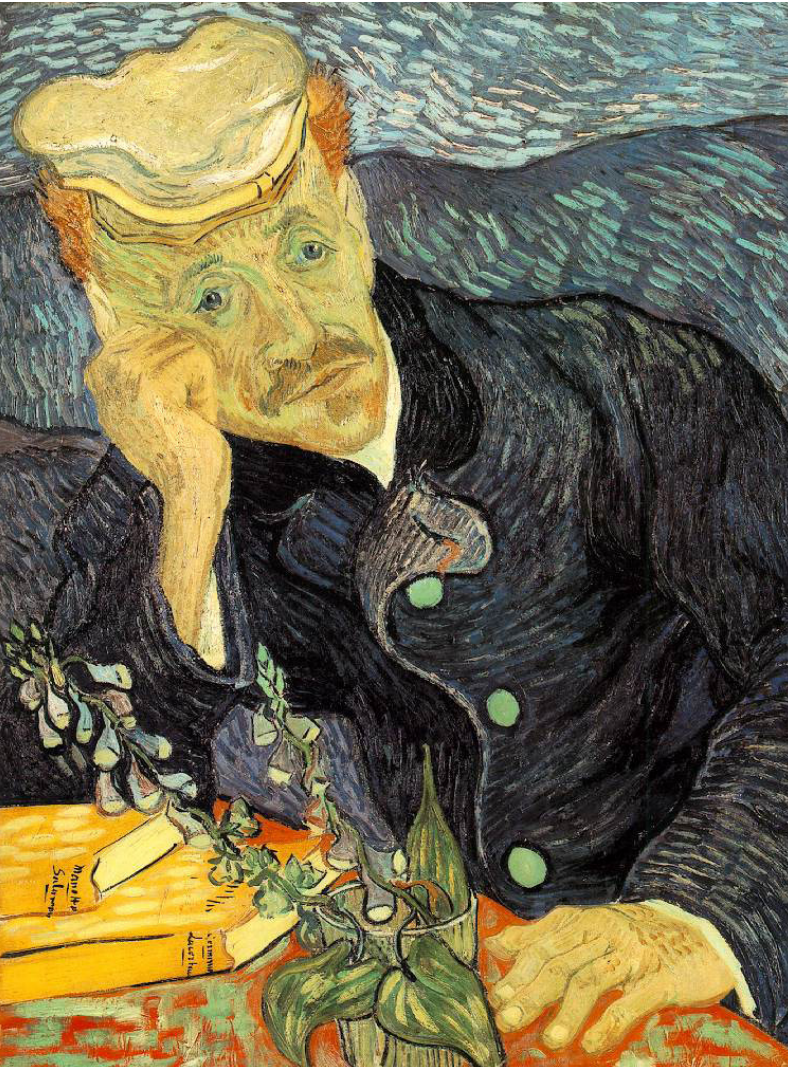
the fact that they refused to change their verses before releasing their songs, proves their apathy towards the subject. Whether their lyrics impact a million people or just one, the messages delivered by their music are a hindrance to society as a whole. Stopping this phenomenon should be an essential task for our society, and it is the audience who must end the cycle. It is within this type of culture that rape victims are blamed for their assaults, women are shamed for their choices of clothing, and perpetrators are forgiven their violence.

In her protest song, “Fight Back,” Holly Near recognized the severity of rape culture in our society and aptly summarized the issue in a few verses: “By day I live in terror/ by night I live in fright/ for as long as I can remember/ a lady don’t go out alone at night”. The occurrence of rape in our culture is intertwined to much more than just the inability of the

in the sustainability of rape culture. The messages within the lyrics in this research are those of irrefutable violence and more than that, are a weaponizable guide to sexual assault. The objectification and sexualization currently victimizing women in our society cannot be deterred if these songs continue to exist. The onus of responsibility must be borne by those of us who recognize its happening and actively engage in its cessation.

Originally from Caracas, Venezuela, Antonella Regueiro Fernandez, is a doctoral candidate at Nova Southeastern University, USA. Antonella’s research interests range from rape culture and gender issues, to genocide and terrorism; but my true passion can be found in resolving conflicts.

A fully referenced version of this article can be provided by contacting publications@iafor.org.



The Portrait of Dr. Gachet

A Study in Sorrows

by Jared Baxter

“Now I have a portrait of Dr. Gachet with the heartbroken expression of our time. If you like something like you were saying about your Christ in the Garden of Olives, not destined to be understood...” — Vincent van Gogh in a letter that he never sent to Paul Gauguin

In the waning spring of 1890, lodged in a corner of the Auberge Ravoux on the outskirts of Paris in Auvers-sur-Oise, Vincent (as he preferred to be called) painted two portraits of his newest physician, Dr. Paul-Ferdinand Gachet. The second depiction is safely tucked away at the Musée d'Orsay, while the first grabbed world headlines when it sold for a record-setting \$82.5 million to Japanese business tycoon Ryohei Saito, nearly one hundred years to-the-day of its completion. The eccentric Saito, intensely passionate about the portrait, exclaimed it would be cremated with him upon his death. He died in 1996. The painting's whereabouts remain unclear.

Though not as isolated, estranged or hospitalized as his two previous years in Provence, Vincent, still suffering and melancholic, composed the portraits in the final days of his abbreviated career. He wrote his sister about the first canvas:

I've done the portrait of Mr. Gachet with an expression of melancholy which might often appear to be a grimace to those looking at the canvas. And yet that's what should be painted, because then one can realize, compared to the calm ancient portraits, how much expression there is in our present-day heads, and passion and something like waiting and a shout. Sad but gentle but clear and intelligent, that's how many portraits should be

left:
Portrait of Dr. Gachet
Vincent van Gogh
Private collection

right:
Christ as the Man of Sorrows
Albrecht Dürer,
Staatliche Kunsthalle, Germany

done, that would still have a certain effect on people at times.

Preeminent van Gogh cataloger Jan Hulsker noted, “much later generations experience it not only as psychologically striking, but also as a very unconventional and ‘modern’ portrait.” While the case can be made for its modernity, this article seeks to demonstrate the doctor’s countenance, posture and composition were inspired by Northern Renaissance master Albrecht Dürer’s *Christ as the Man of Sorrows* (Staatliche Kunsthalle) from some four centuries prior.

True, there is a long and storied tradition of melancholic European portraits, including many adored by Vincent: from Giotto’s *Dante* (Bargello Chapel), to several other Dürer’s (*Melencolia I*, *Portrait of the Artist Holding a Thistle*), to self-portraits by Rembrandt, and perhaps most notably, Delacroix’s *Tasso in the Madhouse* (private collection). This article, however, will briefly layout three arguments that Vincent specifically held *Christ as the Man of Sorrows* in mind when he sat Dr. Gachet for his portrait.

First, painting *Christ in the Garden of Olives* had been gnawing at him for several years, since his time in Arles, when he reported scraping two failed canvasses due to the lack of an adequate model and quote, “Because here I see real olive trees.” Second, if you have ever sat for a portrait, you’ll know the artist positions you precisely as he wishes to paint you. This was especially true for Vincent, who

wrote of those earlier, failed Gethsemane attempts, “But I can’t, or rather, I don’t wish, to paint it without models.” Finally, the placement of books and foxglove serve as *trans-figured* symbols for Dürer’s three-knotted whip and bundle of birches.

A year at Saint-Paul-de-Mausole had not cured Vincent. His brother and caretaker, Theo, remained resolute in keeping him there. Until, something extraordinary happened.

Vincent became a celebrity, at least, among the Parisian avant-garde.


Art critic Albert Aurier’s praise in the inaugural edition of the *Mercure de France*, *Les Isolés: Vincent van Gogh*, coupled with ten van Goghs Theo had installed at the annual *Salon des Indépendants* — alongside Seurats, Lautrecs, Signacs, Anquetins, and Pissarros — where Vincent was hailed as the star of the show as masses thronged to see the brilliance of Aurier’s “tormented genius.” Vincent’s pleas to return north were finally granted.

On their first meeting, Vincent didn’t think much of his new physician, writing Theo:

I think that we must not count on Dr. Gachet at all. First of all, he is sicker than I am, I think, or shall we say just as much, so that’s that. Now when one blind man leads another blind man, don’t they both fall into the ditch?

That Vincent employed a Biblical allusion is poignant so we’ll briefly examine the crux of his Christology and Christ

Still-life with Bible
Vincent van Gogh
Van Gogh Museum, Amsterdam





complex. Vincent, his father and grandfather were not Calvinist, strictly speaking, but adhered to a Dutch Reformed niche, the Groningen school and its ideas about the nature, deeds and person of Christ. They did not prescribe to predestination, nor limited atonement, and even more blasphemous, did not contend Christ came to die on the cross, but to teach His perfection and lead us all into union with God.

And perfection, that shadow? For Vincent, that was art.

Vincent considered Christ the greatest of all artists, for He had made “living men, immortals.” In this same aggrandizing breath, however, Vincent cautioned his penpal, the artist Émile Bernard, whom had recently begun studying the Bible:

I can't help saying to myself— well, well — that's all he needed. There it is now, full-blown... the artist's neurosis. Because the study of Christ inevitably brings it on, especially in my case, where it's complicated by the seasoning of innumerable pipes.

An artist's act of creation is not unlike that of a God. She raises something from nothing, forms her own rules and has total dominion over her subjects. Considering oneself godlike, however prescient Vincent may have been, is a neurosis all self-reflective artists must grapple. As Vincent struggled with the concept of his own divinity, his own role as poet, pilgrim and prophet in the world at-large, Christian iconography, again, manifested itself in his artwork as transfigurations. Renowned van Gogh scholar Debora Silverman succinctly stated:

Van Gogh's art had evolved by 1888 into a symbolist project

Tasso in the Madhouse
Eugene Delacroix
Private collection

*that can be called 'sacred realism,'
a project of divinity made concrete
and discovering the infinite in
weighted tangibility.*

similar state.

The side-by-side placement of the two paintings makes apparent Vincent held the Dürer in mind when he crafted *Gachet*. With so many similarities, it's the differences in posture that are more striking. Whereas Dürer painted Christ with his hands open, Vincent painted Gachet's closed. Dr. Gachet's right hand is balled as it rests against his cheek. His left hand is facing down on the table, rather than up, as in the Dürer. Vincent was aware that Delacroix had accomplished something similar in his *Tasso in the Madhouse*. The tradition of painting *Christ as the Man of Sorrows* required a depiction of His bare torso. Delacroix brilliantly made an allusion to this as he featured Tasso with his shirt largely unbuttoned and splayed wide. Vincent took Delacroix's tradition further by painting his subject's torso fully clothed, and appears to nod to Tasso as Gachet's jacket is unbuttoned at the top. Lastly, Vincent did not paint the lower-half of Gachet, in imitation of Dürer's Christ. To do so would have been obvious and not of "one's own time," but of those yesteryears for which Vincent had derided Bernard.

Dürer's three-knotted whip and bundle of birches, instruments of Christ's torture are similar, though transfigured, representations in Vincent's portrait. Gachet's foxglove juts out from the glass at a similar angle as the whip and birches. Representative of digitalis, a prescribed remedy for heart ailments, it's an allusion to Gachet's profession, his devotion to homeopathic remedies and his "heartbroken expression." The little, yellow novels are a motif common to Vincent. As seen in *Still-life with Bible*, in which he placed a copy of Emile Zola's *La Joie de Vivre*, Vincent considered French, naturalist novels emblematic of the continued presence of Christ in his modern world. He carefully inscribed the books' titles: *Germinie Lacerteux* and *Manette Salomon*, both by the de Goncourt brothers, Edmond and Jules. They stand as models of artistic brotherhood: the first, a cautionary tale of death in the city; the latter, a story of salvation through art. Recent van Gogh biographers Steven Naifeh and Gregory White Smith argued the novels:

Reassured [Theo] that this eccentric country doctor, with his funny white cap and too-heavy-for-summer coat, fully embraced the modern world of the mind, even as he worked to cure its inevitable ills.

Vincent's Christology did not preclude him from painting an imitation of Christ, but rather, demanded it. Further, this necessity was the mother of his aesthetic invention; requiring him to transform the reality he saw before him. In Dr. Gachet, Vincent had found a kindred spirit, a brother, a man whom shared Vincent's same sad destiny: to wander the world a man of sorrows.

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This "weighted tangibility" included a series of portraits as "types." Vincent strove, not so much to represent the individual subject, but the broader category, or archetype, each represented. In Arles, he painted *The Peasant* (Patience Escalier), *The Poet* (Eugène Boch), *The Lover* (Paul Eugène Milliet), *The Pilgrim* (Self-portrait as a Bonze), *La Mousmé* (model unknown), and *La Berceuse* (Augustine Roulin), but he had failed to find an adequate model for his *Christ*. Agitated, he reported scraping off two ill-fated attempts. A dire loss for adoring fans today.

Vincent's Symbolist project did not mean simply copying past masters anymore than it meant attempting to create an iconography foreign to his fin-de-siècle place in time. In fact, Vincent had lambasted Bernard in November of 1889, in the last surviving letter to his about-to-be, newly-estranged friend, scolding him, "in order to give an impression of anxiety, you can try to do it without heading straight for the historical garden of Gethsemane."

Seven months later, after getting to know his new doctor a little better, Vincent quickly made a one-eighty and considered him as close as a brother. He would sit this reflection of himself and paint him as faithfully as he could — with all his anxiety and melancholy — but also, with something more; something as subtle as sublime: the countenance of the suffering Christ. What may be most remarkable, is he did so, without "heading straight for the historical garden of Gethsemane."

Gachet's countenance of melancholy is complemented by noting the posture in which Vincent sat his physician. I'll briefly state, *Christ in the Garden of Olives* and *Christ as the Man of Sorrows* are not the same subject. Christ, while reflecting in the *Garden of Olives* (named *Gethsemane*) occurs before His trial and crucifixion, whereas Dürer represented Christ after the crucifixion. Furthermore, *Christ as the Man of Sorrows* has a richer Biblical history, dating back to The Old Testament and the prophet Isaiah. Vincent was keenly aware of this, evidenced in his *Still-life with Bible*. Painted to commemorate the passing of his father, it depicts his father's Bible, open to Isaiah 53, the Suffering Servant songs. Many Christians believe these passages foretell the coming of Christ as messiah.

The goal in Symbolist painting is not to conflate subjects and themes, but rather, to multiply them, through a "complex play of associations." Vincent could never have painted a crucified Christ. Not only did his personal Christology eschew such a subject, but his gossamer sensibilities prohibited any such horrific replication. Vincent's Christology deemed, while accepting His fate, Christ had suffered in *Gethsemane* as much or more than He would on the cross. Vincent evoked *Gethsemane* many times throughout his life and surviving letters, and in each instance he meant the trials of wandering the depths of sorrow and suffering. Curiously, he found his newest doctor, a brother, in a

Where did you get them Rights?

The legislative and public policy journey of the New Zealand Bill of Rights Act 1990

By Michael Liam Kedzlie



This year marks the 25th anniversary of the New Zealand Bill of Rights Act 1990 passing into law. This article is not intended to be an examination of the statute and what it says and what it can do but more of an historical look at the roots of the legislation and how the public policy side of it developed over time. Nevertheless, and most obviously, the general purpose, the NZBORA was to affirm a range of civil and political rights and freedoms. The right to life, electoral rights, freedom

of expression, thought, religion, assembly, movement. Freedom from discrimination, unreasonable arrest and detention, search and seizure, and the rights to justice. The NZBORA was introduced into the political landscape due to the acknowledgment that New Zealand needed to meet its international responsibilities following our signing up to the International Covenant on Civil and Political Rights (ICCPR) in 1982. By signing the ICCPR New Zealand

was obligated to start the process of enacting its own human principles it into a single, simply expressed domestic statute. Furthermore, there was also the necessity to put in place remedies to restrict the perceived constitutional abuses and negative liberties undertaken by a previous Government, and to restrain any potential abuses of governmental power. As Tipping J in *Hansen v The Queen* [2007] NZSC 7 ably noted the NZBORA was there

“to prevent minority interests from being overridden by an oppressive or overzealous majority.” So instead of focusing on a grand review of the NZBORA, that can be done elsewhere, I am going to look at how we ended up with the NZBORA the way it is by tracing the public policy pathway of its development. Stopping to explain some of the details and events that existed or conspired over its long and at times anguished policy development. The NZBORA seen through the lens of history is a wonderful example to show how the process of law is raised, refined, introduced, moulded, varied, adapted and changed within the political and parliamentary context, until it finally became an ordinary statute law.

Public policy as a process, is typically born out of a societal, political, ideological or legislative need, either singularly or collectively. This process may be sparked from events in the political past that require a remedy or from a requirement that is based on noble aspirations to create for the future a more equitable solution to an outstanding issue. During the three decade long evolution of the New Zealand Bill of Rights Act 1990 (NZBORA) both of these principal ‘needs’ were present. The rights of New Zealand citizens was in existence prior to 1990, it was not like we did not have any. Rights stemming back to the Magna Carta through hundreds of year of statutes and common law existed. But in the modern and ever more complex paradigm of the late 20th century the loose and confusing amalgamation legal rights needed sorting. This of course involved a lot of not just jurisprudence and policy, but also and not meaning to lower the tone, politics.

The early debate

No single public policy is born the same. Politics makes it so. Nor does it evolve the same way in how it’s introduced, discussed, dissected,

enacted and eventually applied as an Act of Parliament. Even, if it does indeed survive the Darwinist process of public policy gestation, the developmental process is *sui generis*. Though a given policy passes through a number of gateways and institutional frameworks as it travels through the developmental and parliamentary process, the principles and ideologies that drive these policies, when applied to the various stakeholders in the subsequent policy debate make the development of each Act of Parliament unique.

Though most New Zealanders associated the NZBORA with the advocacy of Sir Geoffrey Palmer during the late 1980’s, the concept of a Bill of Rights has had an even longer history. Initially, the rights of New Zealanders evolved alongside the common law for much of this young nations’ history. It wasn’t until the 1950’s following the abolition of the Legislative Council and a speech published in the New Zealand Law Journal by Alfred North KC, warning again complacency against the dictates and decrees of government and the bureaucracy, that there began a rise in interest amongst the legal and academic community concerning the protection of rights for New Zealand citizens (Rishworth, 2003).

To the wider New Zealand public during this era, such rarefied constitutional debates were ignored and confined to a small academic clique within the legal community and their small base of progressive liberals, then a very rare breed in in the post-war anti-intellectualist environment of 1950s New Zealand. One of the more organised reformist groups during this period was the Constitutional Society for the Promotion of Economic Freedom and Justice, who advocated a codified written constitution which included the protection of individual rights (Mountplay, 1984). Though tiny in membership it was well connected

to political influence. This academic move towards enacting a code of rights for Kiwi’s no doubt had some influence following the 1960 election when the new National government promised a New Zealand Bill of Rights in their first speech from the throne. After that initial attempt failed due to political inertia, the question of enacting a statutory code of citizen rights went through a period of dormancy. However with the election of Robert Muldoon’s government in 1975 the debate concerning citizen’s rights and the curbing of the unbalance in power between individuals and the executive moved the debate along considerably. Over the next 9 years Muldoon had consolidated his power in becoming a virtual executive of one. It was an era marked by the dawn raids against Pacific Islanders, ‘car-less’ days, wage and price freezes, the Clyde dam, ‘Think Big’ and the subsequent National Development Act 1980 to drive it through and force striking workers back to work. An example of Muldoon over-reaching his executive powers was seen in the case of *Fitzgerald v Muldoon* [1976] 2 NZLR 615 when he attempted to change the law by Prime Ministerial press statement.

In opposition the Labour Party became concerned with the “elective tyranny” of the Muldoon Government. A reformist group in their caucus lead by Geoffrey Palmer, who in the preceding two decades had changed his viewpoint regarding a Bill of Rights, began to see a need for constitutional restraints to protect individual and citizen rights from the government abuse of power. A Bill of Rights was included in the 1981 Labour manifesto but took greater prominence in the 1984 manifesto as part of a wider ‘open government’ policy package that Labour wished to introduce. The introduction of a Charter of Rights in Canada in 1982 provided further stimulus for the reformist group within Labour. Prior

to the 1984 election a couple of key conferences, namely the gathering of the Labour Party North Island membership, and a plenary session at the New Zealand Law Conference gave Geoffrey Palmer the opportunity to publicly air his ideas on the new Bill of Rights framework. Following the defeat of the Muldoon Government in July of 1984, Palmer as the new Minister of Justice was given the opportunity to quickly prepare a NZBORA. With some enthusiasm Palmer and his team went to work.

The Draft Bill

The formation of any public policy process begins when there is an acknowledgement of a problem by the government. It is a stage whereby various options are explored and narrowed down to what the government is willing to accept. Unlike agenda setting, which is primarily a stage when the key actors are non governmental groups or private persons, policy formation is typically restricted under New Zealand's parliamentary system to those key actors who have a specialist interest or contribution to make or are part of the governmental subsystem such as the bureaucracy.

Back in 1963 when National made its first attempt of a Bill of Rights, the Labour opposition had raised concerns about the necessity of the new Bill as did leading law practitioners of the day such as Denis Blundel QC who argued it would precipitate increased litigation and was purely propaganda. The then University of Auckland Law School Dean, Professor C.C Aikman also argued that the Judiciary were not up to the task of being able, to discern higher principles of constitutional law. (Hodge, 1985) This opposition was later documented in an adverse report from the Constitutional Reform Select Committee. (Palmer, 1985) By that stage the first attempt at a NZBORA lapsed into a state of dormancy when

the Select Committee recommended that the Bill should not proceed.

Following the election of the Labour government in 1984, the incoming Justice Minister Geoffrey Palmer, a former University of Canterbury Law Professor, drew together a working group of leading legal academics and practitioners as well as officials to writing the seminal white paper 'A Bill of Rights for New Zealand. During this writing process two draft Bills were prepared, firstly, on 12 October 1984 and then refined further on 4 December 1984. A report was then released by the Cabinet Committee, which was then referred to Cabinet for approval. Following this Cabinet approval the draft legislation was then prepared.

What eventuated was an entrenched Bill that would now control repugnant legislation through the power of judicial review. The draft Bill noted that there were limited checks and balances of parliamentary and executive power and cited New Zealand's obligations under the international convention on Civil and Political Rights. It was from these core principles that Geoffrey Palmer and his constitutional reformist team began to push the policy process towards a new Bill of Rights. (Palmer & Palmer, 2004). The next step in the process was the undertaking of a report from the Cabinet Committee.

The White Paper

In April of 1985 the Government released its Draft White Paper. Most of the rights outlined and indeed the wording were drawn from the International Covenant on Civil and Political Rights (ICCPR) and the Canadian Charter of Rights and Freedoms. The draft paper also proposed that, once enacted, the Bill of Rights should become supreme law otherwise it could be cut down or modified by any inconsistent

legislation.

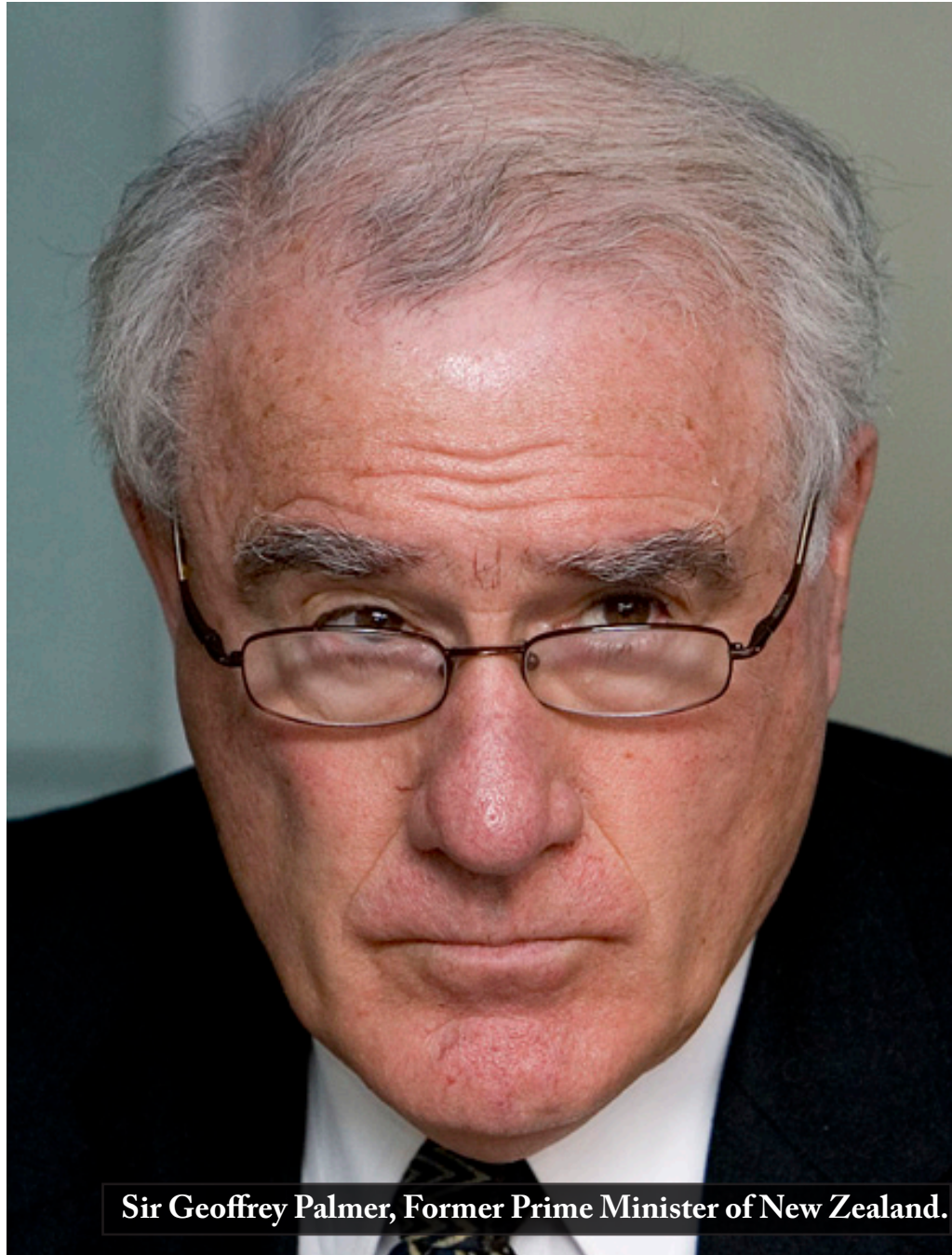
In the forward of the White Paper Geoffrey Palmer made his intentions clear. He commented that it was "a most important set of messages to the machinery of Government itself and that will point to the fact that certain sorts of laws should not be passed, that certain actions should not be engaged in and that a Bill of Rights provides a sets of navigation lights for the whole process of Government to observe." This new attempt to enact a Bill of Rights began what Geoffrey Palmer later described as a 'long and tortuous' process until its enactment six years later, due to the howls of protest from the public and politicians alike. This included some of Palmers own Labour party. The White Paper including the new draft Bill of Rights was not formally read for a first time in the house but was instead tabled and referred directly to the Justice and Law Reform Select Committee, which sort a range of public submissions.

The Select Committee

The procedure for any Bill to pass through Parliament is set out in the standing orders, which are in effect the High Court rules of Parliament. (Jefferies, 1992) Standing orders exist to allow orderly debate and policy scrutiny within Parliament and can allow a new Bill to be either read for a first time and voted on and sent to the select committee or just sent directly. Once referred to a select committee a Bill is examined over a lengthy period. The select committees during this time will invite public submissions; hold public hearings to listen to some members of the public who have made submissions allowing for the issues to be aired, concerns to be raised, points and perspectives to be articulated and then provides' the opportunity for changes, should be necessary, made to the Bill. (Palmer, 2002) The end result is that the select committee produces a report

containing a reprint of the Bill with amendments. The report will usually include a commentary explaining the issues the select committee considered and the recommended changes to the Bill, which then form the basis of the next debate in the House. If the select committee amendments are not supported unanimously by committee members, then each amendment needs to be voted on following the second reading debate. Otherwise they are automatically included in the Bill if the second reading is passed.

In the case of the first Select Committee NZBORA report, it was revealed that public support for an entrenched Bill of Rights was entirely absent. Some objections were rather hysterical such as claiming that it was inspired by communism, or didn't protect the New Zealand flag, and even that it failed to acknowledge that God was the source of all rights in a Christian country. (Haywood, 2008) Not surprising really, due to the political climate surrounding that unsettled period of the mid 1980's when the Homosexual Law Reform Bill was also being publicly debated. Protestations that were tending towards the extreme were easy to ignore, however a number of submissions did garner the attention of the Select Committee members. The response from the legal profession and academic circles was overwhelmingly against the proposed Bill, dubbing it 'window dressing' and 'lacking in any meaningful standards'. This criticism was mirrored by the opposition attacks. (Smellie, 1985) Others considered that the draft Bill did not go far enough and needed to protect further social and economic rights, (Elkind & Shaw, 1986) whereas others, notably the New Zealand Law Society, considered that it went too far in entrenchment and needed to be watered down since Kiwi's could already complain directly to the Human Rights Committee of the United Nations. Opposition to



Sir Geoffrey Palmer, Former Prime Minister of New Zealand.

the proposed legislation also came from Maori interests. One facet of the Draft Bill was the attempt to affirm the rights of Maori under the Treaty of Waitangi. Maori were upset that the Bill would make the Treaty subordinate and argued that it should be the Treaty that has constitutional paramountcy and not any NZBORA. (Tamahere, 1987) Further criticism also came from the feminist movement who argued that it would lead to the further marginalisation of women if the ultimate law-making power shifted from parliament to the judiciary. (Broadsheet, 1985)

The Tenacious Geoff Palmer

The decision-making stage of any

public policy process is overtly political as a government decides, which policy from by now a reduced palette of policy concepts is it to promote further. In New Zealand this is marked by it being almost exclusively involving just the executive branch. The Cabinet manual guides this process and outlines that legislative proposals are submitted in an established form and are then forwarded to the relevant Cabinet Committee and the 'control departments' such as Treasury for response.

Geoff Palmer was more tenacious than his predecessor Ralph Hannan back in 1963 in achieving his legislative objective and thus formed the Bill of Rights Monitoring Group to

Photograph: GNHRE (Creative Commons)

develop a strategy to enhance public debate and guide the public towards acceptance of the Bill of Rights as outlined in the draft white paper. (Hushcroft & Rishworth, 1995) This group however, had the unenviable task of balancing a Bill of Rights that would not do too much in the way of scaring the public regarding legislative entrenchment, whilst at the same time achieving worthwhile protections for individuals. The select committee later reported back in October 1988, with the majority recommendation that the Bill should proceed not as entrenched supreme law, but instead as an ordinary statute. It also recommended, in response to Maori opposition, that the Treaty of Waitangi not be included or referenced. The draft Bill was accordingly redrafted and re-introduced to Parliament in October 1989. With its controversial aspects now dampened down, there were significantly fewer submissions

received by the Select Committee. From there Geoffrey Palmer, now the new Prime Minister was ready to put the revised Bill of Rights before the House.

Following a decision by the Executive to promote a particular policy through to the policy implementation stage, the Governments plans are then put into practice. (Howlet & Ramesh, 1995) At this stage policy instruments are chosen, legislation is drafted, programmes are designed, resources are allocated and services are delivered. It is a formal stage that again involves the executive instructing their officials and the officials advising the executive. New Zealand has very much a 'top-down' policy implementation stance because our constitutional arrangements have allowed the executive to wield greater influence. The political influence involved at this stage in the policy

process is strong particularly when our Cabinet takes a collective decision positioning and with political parties usually voting along party lines in the House being the norm. This control over the implementation extends over into the strategy applied by a Government in pushing the Bill through the House. Parliament can under Standing Orders rush through Bills under urgency and truncate the usual formal process if they have the political numbers to allow the urgency motion to pass. An example of this urgency strategy was utilised by the new National government in trying to push through a raft of criminal justice legislation following the 2008 election.

The final straight

As outlined in previous passages there is a formal process under standing orders for a Bill to pass through



the House involving the Ministers introduction, first readings, select committees, second readings, select committee reports, as well as the committee of the whole House. The New Zealand Bill of Rights was of course lengthy and complex in its journey through this process and in its eventual passage through the House in 1990 saw only small amendments such as the wording in section 5. Once the final form of any Bill is agreed, it is again reprinted to show any amendments that have been made and then it is then ready for its third and final reading. This is usually a summing-up debate on the Bills final form and a last chance for MP's to force a change. The final NZBORA debate was lively and had vocal opposition right up until the final vote end with the National Party members dubbing it a 'Claytons Bill of Rights'. However, the Bill was passed by the Labour Governments clear majority and received its Royal Assent on 25th of September 1990.

The final stage in the policy process is the evaluative stage where by the policy is monitored with a view that at a later stage the policy can be reviewed or amended. This monitoring is essentially a feedback loop to parliament regarding its impact and comes from a wide range of actors both in the public sector and private sector. In terms of the Bill of Rights the one most significant of these actors are the Judiciary who have had the role of applying it to the various landmark cases over the years since its enactment such as Baigent's Case [1994] 3 NZLR 667, Quilter v Attorney-General [1998] 1 NZLR 523 and Moonen v Film and Literature Board of Review [2000] 2 NZLR 9.

The Legacy

Nevertheless, there has been criticism, and some of it has been high powered such as the criticism of the UN

Human Rights Committee. Their complaint is that New Zealand does not have an entrenched supreme bill of rights and is merely an ordinary statute and so does not override other legislation. Of course there is always a certain legal elegance especially in the beaurcractic sense to have grand legal super structural frameworks overlayed, everything all nipped and tucked with no loose ends, t's crossed and i's dotted. However, as Court of Appeal and Supreme Court judges have consistantly shown since its enactment in 1990, the NZBORA in diverse cases such as Hansen, Hopkinson, Quilter, Hoskings and of late Drew v AG (which developed further rights of prisoners to legal representation in prison disciplinary hearings), the judiciary will actively contribute to the ongoing debate around human freedoms and rights. Therefore, human rights compliance in New Zealand will be achieved through contested debate and the balancing of the powers under the crown, not from just from the rigidity of entrenchment. New Zealand of course does not have a formal constitution either, and we do seem to be the top of the class with respect to personal freedoms, human rights and other important terribly things such as rugby. Such things are important to us. Long may it continue.

In his personal evaluation of the NZBORA Sir Geoffrey Palmer noted that it achieved two things. Firstly, it required the Executive to undertake rigorous processes in reporting legislative breaches of the Bill to Parliament and secondly, it provided the Courts with a new weapon to apply statutory interpretation, that was made even more secure with the Interpretation Act of 1999. Both achievements are important, but what the NZBORA did not achieve was the inclusion of economic and social rights for in New Zealander's because in Palmers mind "such broad policy questions would have

made it unmanageable". (Palmer, 2006) This for some will always be a disappointment, along with its lack of being our supreme law. Geoffery Palmer is probably right on that point. One can throw too many ingredients into a public policy solution, turning it into an unweildly static monolithic piece of legislative nonsense, that in trying to be all things to all people disatisfies, conflicts and confuses more than one intends.

No doubt in the future someone will have a very shiny bright idea and have what the great Sir Humprey Appleby described as the political "courage," to move the NZBORA to its next stage in the policy cycle. Yet, the long title of the Bill of Rights states that the purpose of the bill is to affirm, protect, and promote human rights and fundamental freedoms in New Zealand and to affirm New Zealand's commitment to the ICCPR. Applied with good common sense, by a learned Judiciary separated from the vaguries of political machinations and vanities, the NZBORA does that and that is all it needs to do. That, in my view this alone made its 25 year policy incubation worth it and the 25 years since its enactment as something worth celebrating. So whatever criticisms exist, the New Zealand Bill of Rights Act 1990 needs to be recognised as having been a milestone in achieving and securing high level compliance with civil and political rights for New Zealanders and as a model for others who seek to refine and evolve their own status of human rights in their societies.

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“WHAT A COOL LIAR YOU ARE, MELLY”

CONTINUED FROM PAGE 31

Her dark eyes flash a bright intelligence, and the actress emanates a *soignée* quality, offering her traditional warmth along with something else—an enigmatic sexual elegance. The voice is still melodious but, as in *The Dark Mirror*, another register lower, incorporating a slight British intonation which “she uses...to add a further note of mystery to the

“Olivia de Havilland does a dandy job of playing the soft and gracious Rachel with just a faint suggestion of the viper’s tongue.” When she dies at the end of the film because of crossing a condemned bridge, which Philip has not warned her about, after he finds a letter from Rainaldi reaffirming her love for “that boy,” she asks poignantly before she dies, “Why?” Yet she’s been sending money out of the country. She is leaving for Italy, the country of Machiavellian, Borgia-esque women. Is it to allow Philip to have a proper marriage to Louise? Or is it to continue her free life as a merry and

Warner brother, Bette Davis, in this follow-up to the camp, grotesquely memorable 1962 production, *What Ever Happened to Baby Jane?* De Havilland recently explained, “After Joan Crawford fell ill playing a dark character, Miriam, in *Hush...*, and it appeared she would never recover, the film’s director, Robert Aldrich, brought the script to me in the Swiss Alps, where I was vacationing with my children. Once I had read it, I said to him that Miriam, like Terry, was all dark and that I could not submit myself again to playing a character so unremittingly malevolent” (O. de



Writer Victoria Amador with Olivia de Havilland.

woman who explains so little about herself, letting her actions speak for her” (Kass, 1976). Her hair is styled elaborately for her social appearances, but when it is long, loose and flowing down her back while she wears a white nightgown and kisses Burton passionately, we have an actress who is a true *femme fatale*; “this single kiss by one of the world’s great actors was the most erotic she ever received on screen” (ibid.).

All of the tension of a du Maurier thriller requires a good anti-heroine, and de Havilland enjoys the challenge. This time, Bosley Crowther applauded;

now wealthy widow? Those questions are unanswered, and when Burton is pictured in the last shot of this film staring out at the sea, murmuring, “Rachel, my torment,” we see that de Havilland’s Rachel, rather like du Maurier’s Rebecca, has not been conquered, even by death.

Hush...Hush, Sweet Charlotte

So who better to replace the ailing Joan Crawford in the 1964 shock horror flick, *Hush...Hush, Sweet Charlotte*? Who better to co-star with, and almost drive mad (as a character, *not* as a colleague), the fifth

Havilland, personal communications, 7 January 2015). While de Havilland was interested in working again with her friend Bette Davis, she’d taken critical heat for appearing in *Lady in a Cage* in 1964, one of a series of 1960s shock/horror films which seemed to violently exploit the fading careers of once great Hollywood actresses.² De Havilland didn’t want to be limited by identification with that genre and thus initially rejected the offer.

Additionally, de Havilland didn’t like the role of Miriam Deering in the original script, as she recounted recently: “Undaunted, Aldrich then

posed several questions which he knew would pique my curiosity: 'Weren't you attracted by the dichotomy? Intrigued by the ambiguity? By the ambivalence?' I replied that I saw no dichotomy, no ambiguity, no ambivalence whatsoever in Miriam's character, but that I would read the script again that night" (ibid.).

After the years of battling for a stronger career and more considered roles, de Havilland was not about to accept a script she didn't like: "When I met him the next morning, I said, 'I still don't see any dichotomy, any ambiguity, or any ambivalence in Miriam; but I think I know how you can achieve this: give her perfect manners. As written, in her very first scene Miriam [was] abominably rude to Agnes Moorehead, a 'slavey,' leaving no doubt whatsoever as to Miriam's villainy. By giving her perfect manners the audience will be misled regarding her true character—which ought not to be revealed until the last possible moment" (ibid.).

Fortunately, "Bette Davis...liked this idea; a re-write was arranged, and the script was altered accordingly" (ibid.). Aldrich agreed to change the role's concept from a patently evil woman to that of a "refined and charming and apparently sympathetic lady... [which] gave the character an ambivalence that no actress could resist" (Thomas, 1983), and thus de Havilland enthusiastically accepted.

That duality of the divine and the dark permeates *Hush...Hush*, *Sweet Charlotte*, which, while occasionally exploitative and *Grand Guignol*, earned seven Oscar nominations and garnered generally good reviews. Rather than being as a film in which de Havilland and Davis are "turned into complete travesties of themselves" (Haskell, 1974), *Hush...Hush* demonstrates that the actresses were having a grand time "playing out their campy roles, taking the old melodramatics of their Warner Bros. heyday and going over the top" (Matthews, 1995).

Several critics at the time of its release recognized the film for what it was: a thriller whose notable cast raised the script to deliciously melodramatic heights. Arthur Knight called de

Havilland "properly oversweet as the solicitous Cousin Miriam." And *Time* captured the tone of the film in its review entitled "Dragon Ladies": "To make clear that the fright is all in fun, this monster rally offers not two but four seasoned movie queens--three of them ready to let down their hair... The tidy one is actress de Havilland, who flings away her composure but retains her chic" (Knight, 1965).

De Havilland's performance, however, offers a bit more subtlety than that statement implies. Her ladylike cousin Miriam Deering, sweetly named, substitutes charm for curare, tipping her intentions like poisoned arrows and delicately letting them fly at poor Charlotte. De Havilland explained her approach to the characterization as follows: "It's always the charming ones of evil intent who are the dangerous ones; the other ones you can see coming. But you can't see Miriam coming, and she's really dangerous" (Thomas, 1983). She certainly is. Blackmailer, killer, poseur, seducer, avenger—and all done with that honeyed de Havilland allure.

A view of this aspect of de Havilland's lethal sweetness had appeared in earlier films. One must consider de Havilland's last half-hour as Catherine Sloper in 1949's *The Heiress*, in which duality again rears its duplicitous head. Her cool, calculated revenge upon gold-digging Montgomery Clift, culminating in that long walk up the dark stairs into permanent spinsterhood, is bone-chilling. It took an effective actress to believably walk away from Clift's pre-car accident beauty, no matter how manipulative his Morris Townsend was.

So Miriam Deering continues the elegant tightrope of characterization of satin and steel often found in de Havilland's performances. Her southern softness in this role reminds us of the spine of her famous Melanie. Scarlett got everyone back home to Tara, but Melanie had the baby while the Yankees were storming Atlanta, suggested Scarlett rifle the pockets of the Union deserter, comforted a weeping Rhett Butler, and kept her weak Ashley faithful to her. After all of that, de Havilland's dainty belle-cum-ruthless avenger in *Hush...Hush*

menaces as creamily as a cyanide teacake.

What separates *Hush...Hush* from other William Castle-ish genre classics, and what places it only slightly below *Baby Jane* for pure camp delight, is the tone of the acting. Aldrich's directing style, informed in part by the uneven script of Henry Farrell and Lukas Heller, is wildly inconsistent in *Hush...Hush*--is it a comedy? A tragedy? A tragicomedy? A parody? It's almost as though everyone wandered onto the same set at the same time and appears in their own strange southern Gothic film. Yet the veteran actors are riveting and somehow it all works, the participants playing off each other in true ensemble tradition, their collective years of studio training resulting in a delightfully broad, macabre entertainment.

Bette Davis careens from being wildly bitchy to disturbingly vulnerable as the not-quite-mad Charlotte Hollis, who may or may not have cut off the hand and head of her married lover, John Mayhew, back in the 1920s, when he ended their affair. Bruce Dern plays the unfortunate John in yet another incarnation of the creepy antagonist he played in numerous '60s B-films. Noblesse oblige kept Charlotte out of jail, but thirty-some years later, she is the local crazy woman whose family manse is about to be destroyed by the county to build a new highway, and she will have none of it. Reminiscent of William Faulkner's eponymous southern belle-cum-murderer in "A Rose for Emily," Davis gives us a memorably vulnerable heroine.

Other Hollywood greats have a wonderful time in this spirited, spooky tale of revenge. Joseph Cotten portrays manipulative lawyer Drew Bayliss as an aging, slurring, drunken southern doctor and gigolo. Mary Astor is Jewel Mayhew, the widow of John, a frail old lady with grande dame dignity. Cecil Kellaway invests his compassionate insurance investigator with gentle English charm. Agnes Moorehead (who won a best supporting Oscar nomination and a Golden Globe award for her efforts) is utterly hilarious and scene-stealing as the white trashy Velma Cruther, Charlotte's maid and strongest ally, legendarily crass 'n crude, a Flannery

O'Connor nightmare, the woman for whom the word "slattern" was invented.

And in the center of these varied styles stands the eye of the storm. De Havilland plays Miriam as a normal, poised woman, an outsider to the rather extreme goings-on way down South. Yet the poise gradually, impalpably becomes transparent. Beneath it we see the need to avenge the past which set the "tragic" events in motion, and that anger and hurt surfaces in some high dramatic moments. There is also however the cool sociopath whose elegant restraint masks an empty heart. Those scenes are eerie, efficient, chilling. Amidst a gathering of gargoyles, de Havilland gracefully insinuates her romantic evil, a true *femme fatale*. As she says, "[P]ortraying Miriam became a game for me, thus saving me from undergoing the dark experience which had so profoundly and negatively affected me on *The Dark Mirror* (O. de Havilland, personal communication, 7 January 2015).

The plot is appropriately convoluted, albeit a pale mirror of the equally convoluted but much smoother vehicles created for stars like de Havilland and Davis and Cotten and Astor during the golden age of films. In 1927, on a warm southern evening in New Orleans, in a grand mansion (the beautifully preserved Houmas House between New Orleans and Baton Rouge), a party is roaring for Miss Charlotte Hollis. She is the beloved daughter of her Big Daddy, Big Sam Hollis, played by Victor Buono doing a wonderful Burl Ives impersonation.³

However, unbeknownst to Miss Charlotte, Big Sam is hopping mad at Charlotte's secret lover, John Mayhew (Bruce Dern). Not only is John currently married to Jewel Mayhew (Mary Astor), but if he marries Charlotte he'll someday get his hands on her daddy's money, and that ain't about to happen. Big Sam orders him to cancel their planned elopement from the summer house and then skedaddle.

John reluctantly breaks the news to Charlotte, who screams at the cad, "I could kill you!" And just a few minutes later, someone efficiently chops off

John's head and hand in the summer house. Then into the party walks La Somnambula Charlotte, her pretty white *Jezebel*-ish dress drenched in blood.

Jump ahead to 1964. Charlotte still lives in the mansion, Baby Jane in a ball gown, haunted by her memories of John and her belief she killed him. She managed to beat the rap but she is no longer the belle of the ball. She's become isolated, the town crazy woman living in a haunted house, tormented by local little boys.⁴ Charlotte's only "friend" is her hired woman, Velma Cruther (Agnes Moorehead), a raw but loyal southern servant.

To make matters worse, the county plans to bulldoze Charlotte's ancient family home to make room for a bridge. She will become a madwoman without an attic. Her doctor Drew Bayliss (Joseph Cotten) advises her to leave, but she will not listen. Who can help Charlotte retain her refuge?

Who else but her last remaining blood relative, Cousin Miriam Deering? Now an urban public relations person, Miriam's mother was a northerner, but Miriam was raised in the mansion after being orphaned. Out of familial loyalty, despite her outsider/Yankee status, Miriam returns to Louisiana and to her "home" to fight the county and save the house, or so Charlotte believes.

But with Miriam's fashionably late entrance onto the scene (37 years after John Mayhew's murder and 28 minutes into the film), the conflict becomes far more complicated than a mere standoff between a crazed, aging Southern belle and the "gumint." It becomes Miriam's conflict; she is an avenging angel balancing the scales of justice, ruthlessly, in her favor.

De Havilland's initial screen appearance in the film is timed perfectly to establish that "dangerous" edge between what seems to be and what *is* in her character while also giving the star a grand entrance. Miriam appears, shot literally in sunshine and shadow, in the back of a taxi, wearing a sailor hat variation and a boat-necked sheath, looking thoughtfully out the windows at the

land that time forgot. The soundtrack score by Frank De Vol accompanying her entrance is as lush as the foliage, all piano and harps, ladylike music for the ladylike killer.

De Havilland plays the early scenes of the film with a kind of wide-eyed, gentle *glissando*. The delicate line between her eyes seems permanently furrowed in concern and amazement at Charlotte's condition. Her false eyelashes tilt up at the edges like wings, and the rest of her makeup is restrained. She holds the gaze of the person to whom she speaks. She wears gloves and the Dior-like (de Havilland's private couturier of choice) tailored dresses of an elegant woman. In fact, her wardrobe is quite sexy – halter chiffon dresses, high heels, and bare arms. Her hair pertly frames her face; she's petite and slim with continental carriage. Her voice is warm, her vowels long and soothing, and her timbre young and light one moment, low and wise the next. Miriam at first glance is how we expect a worldly woman of a certain age to appear.

But at this early stage, there's the suggestion of the serpent in the garden. Miriam's attire is a genteel disguise; de Havilland's *soignée* presence, while trim and chic, costumes a carpetbagger in sheep's clothing. And she shows up a day early and catches everyone off guard, commenting casually that she had to catch an early plane while removing her gloves (prepared for battle) and *not* making eye contact with Velma, who's *not* happy to see her.

Miriam also doesn't suffer masculine braggadocio gladly. For example, she meets Drew Bayliss (Cotten), apparently for the first time since he dumped her years before over the Charlotte scandal. Drew tries to insinuate himself into her good graces by complimenting her awkwardly and aw shucks-ing, "You know I never was any good at expressing myself."

Miriam hasn't forgotten his fickleness and reminds him sibilantly, "Oh, that's not so at all, Drew. You were always very quick with your compliments. It was just your intentions. They were sometimes...a little vague." De Havilland phrases that line

by holding the “n”, by theatrically pausing between thoughts. She coos her lines. She’s flirting with Drew and with the audience, obviously performing, obviously controlling the moment. While friendly, her delivery of the line also offers a preview of the character—she is restrained, no one’s fool, and very, very clever.

Winning, control, and vengeance are key elements to de Havilland’s Miriam Deering. We see those elements in the reunion between Miriam and Charlotte, Olivia and Bette. The acting styles of the actresses in this scene, and throughout their scenes together, are reminiscent of their characters Roy and Stanley in *In This Our Life*. De Havilland is calm, poised, warm, and radiant; Davis is manic, ragged, imperious, and large.

This consciously mannered graciousness begins to fray at the hem, however, at the reunion dinner that evening between Charlotte, Miriam, and Drew. Charlotte appears at first relaxed, sane, as she sips a fine vintage and rattles on about how Miriam’s going to save the day and the mansion. All the while Charlotte’s chatting away, Miriam is shown in half-shadow, shot by Aldrich from a menacingly low angle. Everything’s pleasant until Miriam interjects a note of reality into Charlotte’s high hopes. Using a literally musical tone of voice with her cousin, and approaching her as one would a child, de Havilland melodically states, “There isn’t anything we can do about the house. You *have* to leave.” This pronouncement of doom is delivered prettily by the pretty Olivia in iambic beats, her eyes wide and dark, her diction restrained, her eyebrows daintily arched.

Of course, the diva battle begins. Charlotte stares at Miriam with contempt and explodes, hitting every consonant in that Bette Davis way, “What do you think I asked you here for? Company?” This scene gives de Havilland the opportunity to “act back” at Davis, literally renouncing Charlotte’s father’s “generosity” towards her as she hisses at Davis, “Yesssss, I remember he took your poor up north cousin downtown for a whole new wardrobe. Down to a sleazy store he wouldn’t even let you

set foot in!” There is a luxuriousness of consonants in de Havilland’s delivery of these lines.

And when Charlotte plays her trump card, telling Drew and the audience that it was Miriam who told Jewel and her father about her affair with John Mayhew in the first place, we experience the full fury of Miriam. In her icy, calculating style of delivery, the anger and the pain of Miriam unfolds in the unrestrained explanation de Havilland offers: “Yes, I told Jewel. And I told your father, too. Why wouldn’t I? After all, I wasn’t much more than a child then. And all I ever got in this house was people telling me how lucky I was. And your father always favoring you and holding you up as an example. Why wouldn’t I tell him that his pure darling little girl was having a dirty little affair with a married man” (Hush)? De Havilland begins the speech slowly, building to a crescendo of hatred, emphasizing the most vitriolic adjectives. Director Aldrich closes in on her tightly, her eyes becoming black dots of fury, her face a tight mask of hatred. Clearly, Miriam has her own agenda.

One by one, de Havilland’s Miriam thwarts anyone interfering with her plan to shuttle Charlotte away and take control of the Hollis fortune. However, there’s one primary roadblock between Miriam and driving Charlotte mad—the sly, white-trashy housekeeper and true friend of Charlotte, Velma Cruther. The acting styles of Agnes Moorehead and de Havilland are worlds apart in this film, and that difference is wildly entertaining in their two major scenes together, culminating in Miriam’s brutal murder of Velma. De Havilland’s chic beauty and brisk efficiency could have been swallowed up by Moorehead’s delicious *Tobacco Road* parody. It would be difficult for most actresses to hold the screen against that kind of outrageous playing. Yet once more de Havilland uses the frozen heart of Miriam as counterbalance to her compatriot’s juicy slices of ham. She is the again still point, the eye of the storm. De Havilland allows the balance of cruelty and craftiness full sway, and in her brutal killing of Moorehead’s Velma, we see that divine duality of murderous brightness in its gothic glory.





Velma has gone to insurance adjustor Mr. Willis and expressed her fears for Charlotte and her suspicions about Miriam, and now she's sneaked back into the house to rescue her beloved Miss Charlotte. Just in time, too because Charlotte's been drugged by Drew and Miriam, who as it transpires are in cahoots to drive Charlotte mad, commit her, and control her fortune. Velma rushes upstairs to Charlotte's room and tries to haul the catatonic Charlotte out of her bed, but Miriam slowly enters. The look on her face is terrifying – cold, impersonal, bitter. De Havilland's eyes in her close-up betray icy loathing as she intones to Velma in a flat disgusted, class-conscious voice, "You just can't keep hogs away from the trough, can you?" Starting to descend the stairs, Velma makes the mistake of turning her back to Miriam who grabs a chair, raises it high above her coiffed head, and slams

it down onto Velma, who naturally tumbles down the stairs dead. De Havilland's murderous intent makes her look ten years older, her face kabuki-like, white, almost inhuman. It's a satisfyingly ghoulish scene and a freeze-frame of the moment suggests the depths available to the actress, which she releases sparingly, in this film and in her later career.

This is all building to the climactic, *Dynasty*-like confrontation between the two. Drew and Miriam stage his murder, convincing Charlotte he's dead and that his body must be disposed of. Miriam takes charge—how many bodies has she hidden before? —and drives, unblinkingly, back to Hell House while Charlotte whimpers by her side. Miriam's last nerve just sprung. She stops the car, does her trademark slow, lethal turn, grabs Charlotte's gown, and then backhand slaps her six times.⁶

Delivering her epithets in a hissing, guttural voice, and showing her of bottom teeth and unfurled lower lip, de Havilland intones in a low octave, "Damn you. Now will you shut your mouth? You'll do as I tell you and if I tell you to lie you'll do that too. I'm never going to suffer for you again. Not ever. Do you understand?" She looks like she'd like to tear her throat out with canines, and the moment is genuinely, brutally chilling, ending with a drugged, babbling Davis and a soothing, cooing de Havilland stroking her mad head.

Of course, there must be retribution, and it is divine. And de Havilland looks divine in her last scene. She descends the staircase down which she dispatched Velma rather like Loretta Young. Dressed in a sleeveless, low cut black evening gown, she pats her hair into place (a casually evil touch) and joins her partner Drew in a champagne toast. With a jaunty spring in her drink, mature sexuality on display, quaffing one glass and having another, she reveals to Drew, who is trying to control their future, the full force of her vengeful heart.

Chastising his masculine preening, she notes, "Are you sure you have the brains to be the senior partner?" She then reveals to Drew that she sent Charlotte dozens of harassing letters for years, convincing Charlotte that Jewel Mayhew was behind them. She also confesses that she caught Jewel red-handed, so to speak, in the murder of John and blackmailed her until her money ran out. Even Drew is shocked by this cruelty and wonders that she could make both women suffer for so long. Miriam pertly replies, "Yes darling, that's exactly what I did...You joined this game later than you thought." De Havilland's cool intelligence makes this plot development almost believable.

But murder will out. While Miriam and Drew chatter mockingly about their plans to each other (and the audience), Charlotte creeps to the balcony above them and listens in. She seems stunned as Miriam draws in mock-southern tones that she'll have to pretend to be upset that her cousin Charlotte has gone bonkers. Her fire returns however when Miriam and Drew chuckle over her impending

institutionalization and impugn the character of her beloved father and her lover. Miriam proclaims in a high, sugary voice, "All that lovely money that Big Sam sweated to get his hands on. While we're spendin' it like water, Charlotte will be weaving lots and lots of little baskets." This line is delivered in a soprano mocking tone, sing-song-ed by de Havilland almost too grandly, as though Aldrich directed her to be as evil as possible so she deserves what she gets. That does it. Charlotte pushes a concrete planter over the railing of the balcony, and Miriam looks up in time to shriek before she dies. Of course, in death de Havilland looks glorious, laid out open-eyed in that glamorous gown and staring up at the woman who has triumphed over her one final time.

Olivia de Havilland spoke of *Hush... Hush, Sweet Charlotte* as being "full of traps, it was a delicate tight-rope walking assignment. I found that very interesting. Aldrich gave it...a kind of dark glittering style which fascinated me" (Thomas, 1983). That notion of the "dark glittering style" perfectly describes the approach de Havilland took in portraying her character—a brightness haloed by darkness, a shadow dimming the light.

While Olivia de Havilland may have been troubled by creating the dark ladies she portrayed in *Devotion*, *The Dark Mirror*, *My Cousin Rachel* and *Hush...Hush, Sweet Charlotte*, she enhanced the catalogue of her film performances by showing viewers her potential to play anti-heroines which suggested the depths of her talents. Had the actress not moved to France after her marriage to *Paris Match* and Coco Chanel biographer Pierre Galante in 1955, focusing upon her family and her new Parisian life, and wisely eschewing a Hollywood which was undergoing radical transformation due to the rise of television and the fall of the studio system, she might have pursued additional roles which elaborated upon her unique gift for portraying sunshine and shadow.

In an e-mail received from the Tokyo-born actress, on November 8, 2014, when she learned this essay would be presented at the IAFOR conference in Osaka, Japan, she wrote: "[Y]our listeners may, or may not be

interested in the fact that I can still count to eight in Japanese! Of course I send my special greeting to them." With the graciousness and enduring enthusiasm she still displays in her private life, with its own rewards and regrets (as Dotson Rader titled an interview with de Havilland), the actress expressed an energy which could create a gentle Melanie Wilkes and a steely Miriam Deering. Almost thirty years ago, she proclaimed, "I like life! I want to have more of it. To venture more, create more, experience more. Oh, I want to go on for a very long time" (Rader, 1986)! At the age of 98, alive, well, and living in Paris, Olivia de Havilland is doing just that. Even Jack Warner would be proud.

Notes

¹ De Havilland did however win acclaim for her harrowing performance as a woman trapped in her house while it is invaded by crazed thugs. The British magazine *Films and Filming* chose her performance as the best by an actress that year.

² The party scene offers one of the problems of many '60s "period" films—the costumes work, but all of the extras look like Nancy Sinatra. Incidentally, the blonde debutante looking for Charlotte at the party is none other than Bette Davis' daughter dearest, B.D.

³ The little boy who breaks into the house to startle Charlotte is actor John Megna, who played Dill in *To Kill a Mockingbird*. It's another Boo Radley moment.

⁴ Interestingly, Aldrich photographs de Havilland through the bars of the staircase in this and other scenes, as well as in bar-like shadows throughout the film. Not only does this add to her black-or-white characterization, but it also reminds us of the Warner Brothers days of great lighting effects.

⁵ De Havilland's crisp take-charge attitude in these packing scenes is reminiscent of her Oscar-winning role as Jody in 1946's *To Each His Own*. In that film, after having to give up her illegitimate son, Jody goes to the big city and turns an antique face cream mixing machine into a million dollar corporation with no fuss, no muss. That efficient taking-care-of-business air seems to be a de Havilland trademark both on and off the screen.

⁶ De Havilland actually slapped a stand-in; after all, she and Davis were friends as well as stars. Pity the poor stand-in's face, though; these aren't love taps.

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